



Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Thirty-eighth Meeting Day

Monday Afternoon

April 4, 2005


The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Claudia Mitchell, Sherwood Oaks Christian Church, Bloomington, the guest of Representative Peggy M. Welch.

The Pledge of Allegiance to the Flag was led by Representative Vanessa Summers.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 377: 99 present; 1 excused. The Speaker announced a quorum in attendance. [NOTE:  indicates those who were excused.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, April 5, 2005 at 10:00 a.m.

FRIEND

Motion prevailed.

MESSAGE FROM THE GOVERNOR

Mr. Speaker and Members of the House: On April 1, 2005, I signed into law House Enrolled Acts 1032.

MITCHELL E. DANIELS, JR.
Governor

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 37

Representative VanHaften introduced House Concurrent Resolution 37:

A CONCURRENT RESOLUTION honoring Elizabeth Korb.

Whereas, Elizabeth Korb, an esteemed resident of Evansville and a student at Signature School, has achieved national recognition for exemplary volunteer service by receiving a 2005 Prudential Spirit of Community Award;

Whereas, This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities;

Whereas, Elizabeth Korb earned this award by giving generously of her time and energy in organizing fundraisers and other school and community events to help build and supply books for a library in Kenya; and

Whereas, The success of the state of Indiana, the strength of our communities, and the overall vitality of American society depend in great measure upon the dedication of young people like Elizabeth Korb, who use their considerable talents and resources to serve others: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the members of the Indiana General Assembly congratulate and honor Elizabeth Korb as a recipient of a Prudential Spirit of Community Award, recognize her outstanding record of volunteer service, peer leadership, and community spirit, and extend best wishes for her continued success and happiness.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Elizabeth Korb.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator L. Lutz.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:45 p.m. with the Speaker in the Chair.

The Speaker announced that Representative Hoffman's father had died and that Representative Hoffman was excused for the rest of the day.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 43 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act 484 for signature.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 38

Representative Dodge introduced House Concurrent Resolution 38:

A CONCURRENT RESOLUTION honoring Eric Westrick for his outstanding community service.

Whereas, Eric Westrick, an esteemed resident of Auburn, Jackson Township is honored and recognized for his outstanding community service;

Whereas, While attending Dekalb Central school, Eric Westrick, was a three-year member of the cross country team, a two-year member of the track team and a three-year member of the Spanish club;

Whereas, Eric Westrick is a member of the National Honor Society and has shown his leadership skills by serving as President of his sophomore class and was elected Vice President of his junior class;

Whereas, Eric currently serves as a mentor to five freshman and is also a "DARE" role model;

Whereas, Eric Westrick helped run the District Radiothon for the Women's Care Center, the Lions Night at the Wizards and supervised 100 Leos who packed care packages for the troops in Afghanistan at the News Sentinel;

Whereas, Eric Westrick has worked at cabinet meetings, council meetings, district conventions, state conventions, and international conventions as well as driving 150 miles by himself in an ice storm the night before mid-winter conference to set up and run the Leo booth;

Whereas, Eric Westrick established the Adopt a Grandparent project;

Whereas, Eric Westrick reads stories in Spanish to small children at the library on a weekly basis;

Whereas, Eric Westrick is going on a ten day eye care mission to Southern Mexico on March 25, 2005;

Whereas, Eric Westrick has a 9-year-old "Little Brother" that he cares for in the Big Brothers program;

Whereas, Eric Westrick is a "Baron Buddy" serving as a friend to a student in need;

Whereas, Eric Westrick's extensive list of community service involvement includes his leading or participating in the Penny Pitch, the Relay for Life, the Literacy Night's program, the club's chili cook-off fund raiser, the "trick or can" Halloween project, the Day with Santa, the collection for Thanksgiving and Christmas family, the chocolate bunny sales, and car washes;

Whereas, Eric is the son of Steven and Teresa Westrick; and

Whereas, the success of the State of Indiana, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of people like Eric Westrick who use their considerable talents and resources to serve others: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana House of Representatives, the Senate concurring, does honor and recognize Eric Westrick for his outstanding community service.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Eric Westrick.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Kruse.

House Resolution 40

Representative Saunders introduced House Resolution 40:

A HOUSE RESOLUTION to recognize the contributions made by Nicholas "Nick" Gambaiani to the State of Indiana.

Whereas, All persons are endowed by their Creator with unique gifts and talents;

Whereas, Some gifts and talents are not readily identified;

Whereas, Some persons struggle mightily to overcome burdens and obstacles;

Whereas, Monumental struggles were successfully conquered and overcome by Nick Gambaiani;

Whereas, Nick worked for the Indiana Department of Education for 13 years as a valued member of the staff;

Whereas, Nick's duties included data entry, mail distribution, printing, copying and office machine preparation;

Whereas, Nick Gambaiani succeeded in demonstrating through the power of his pure spirit, that obstacles can be overcome and workplaces can become positive venues for work and expression;

Whereas, Nick Gambaiani inspired others to achieve by the power of his example and being;

Whereas, Nick Gambaiani demonstrated excellence toward others as exemplified by his optimism and volunteerism;

Whereas, Nick was the loving son of Larry and Helen Gambaiani and a cherished brother to Tony and Gina;

Whereas, Nick Gambaiani's contributions to the State of Indiana far exceeded those that would have been expected of one whose mortal life was so quickly, unexpectedly, and unfortunately ended; and

Whereas, The State of Indiana is richer for having had Nick Gambaiani as one of its citizens: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives does recognize the contributions made by Nicholas "Nick" Gambaiani to the State of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Representative Tom Saunders, Bob Marra and the Gambaiani family.

The resolution was read a first time and adopted by voice vote.

Senate Concurrent Resolution 43

The Speaker handed down Senate Concurrent Resolution 43, sponsored by Representative Buck:

A CONCURRENT RESOLUTION honoring the Clinton Central FFA for winning the 2004 American Royal Livestock Judging Contest, the State Meats Career Development Event and the Crops Judging 4-H Division State Championship.

Whereas, Troy Walker, Jared Stowers, Jeffrey Cole, Bradley Baker, Blake Stowers, Matt Dunham, Brent Dunham, Alyssa Smith, Courtney Smith, Samantha Beebe and Carrie Miller are all members of the Clinton Central FFA (the "Team") which is led by Roger Carr and Matt Dice;

Whereas, The Team won the FFA division 2004 American Royal Livestock Judging contest in Kansas City, defeating teams from 24 states;

Whereas, At the contest, the Team placed 1st in reasons, 1st in cattle judging, 1st in swine judging and 2nd in sheep judging;

Whereas, The Team won the 2004 Indiana State Meats Career Development Event at Purdue University, defeating 37 other teams in judging six placing categories, identifying 40 meat cuts, taking a quiz and meat formulation exam and judging quality and yield grade of four beef carcasses;

Whereas, The meat judging victory gives the Team the title of 2005 FFA State Meats Judging Champions; and

Whereas, The Team won the Indiana State 4-H Crops Judging Championship by identifying 25 crop and weed specimens, 25 crop and weed seeds, deficiencies of crops, calculating and grading grain, and taking a quiz over agronomy: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly honors the Clinton Central FFA for their exceptional victories in livestock, meat and crops judging.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to FFA Advisors, Roger K. Carr and Matt Dice and to Principal, Ronald Dunn.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 2, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 2.

FOLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 8, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 10, delete "or".

Page 1, line 12, delete "record." and insert "**record; or**

(4) an attorney licensed to practice law in Indiana who is agreed upon by both parties in a family law arbitration."

Page 1, line 17, delete "(a)" and insert "**This chapter is applicable only to the family law matters described in section 2 of this chapter and does not apply to any other type of arbitration. An appellate court opinion interpreting or construing this chapter has precedential value only for family law arbitrations and does not apply to any other type of arbitration.**

Sec. 2. (a)".

Page 2, line 40, delete "2." and insert "**3."**

Page 3, line 6, delete "3." and insert "**4."**

Page 3, line 13, delete "4." and insert "**5."**

Page 3, line 18, delete "5." and insert "**6."**

Page 3, line 26, delete "6." and insert "**7."**

Page 3, line 41, delete "7." and insert "**8."**

Page 4, line 24, delete "8." and insert "**9."**

Page 4, line 36, delete "9." and insert "**10."**

Page 5, line 1, delete "10." and insert "**11."**

Page 5, line 2, delete "6(d)" and insert "**7(d)".**

Page 5, line 4, delete "11." and insert "**12."**

Page 5, line 19, delete "12." and insert "**13."**

(Reference is to SB 8 as printed January 14, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 1.

FOLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 73, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE JULY 1, 2006]".

Page 1, line 11, beginning with "(1)", begin a new line block indented.

Page 1, line 11, delete "contract".

Page 1, line 14, beginning with "(2)", begin a new line block indented.

Page 1, line 15, delete "three million dollars (\$3,000,000)," and insert "**two million five hundred thousand dollars (\$2,500,000)."**

(Reference is to SB 73 as printed February 25, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 3.

RIPLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 295, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

FOLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Engrossed Senate Bill 340, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, after line 15, begin a new paragraph and insert:

"SECTION 11. IC 33-24-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The division of state court administration shall establish and administer an office of guardian ad litem and court appointed special advocate services. The division shall use money it receives from the state general fund to administer the office. If funds for **volunteer** guardian ad litem and court appointed special advocate programs are appropriated by the general assembly, the division shall provide matching funds to counties that ~~are required to~~ implement and administer, in courts with juvenile jurisdiction, a **volunteer** guardian ad litem ~~and or~~ court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under IC 31-33. Matching funds must be distributed in accordance with the provisions of section 5 of this chapter. A county may use these matching funds to supplement amounts that are collected as fees under IC 31-40-3-1 and used for the operation of **volunteer** guardian ad litem and court appointed special advocate programs. The division may use its administrative fund to provide training services and communication services for local officials and local guardian ad litem and court appointed special advocate programs. The county fiscal body shall appropriate adequate funds for the county to be eligible for matching funds under this section.

(b) Matching funds provided to a county under this section shall be used for **volunteer** guardian ad litem and court appointed special advocate programs and may be deposited in the county's guardian ad litem or court appointed special advocate fund described in IC 31-40-3.

(c) Any matching funds appropriated to the division of state court administration that are not used before July 1 of each fiscal year do

not revert but shall be redistributed under this section on July 1. The division shall redistribute the funds among counties providing **volunteer** guardian ad litem and court appointed special advocate programs that are entitled to receive matching funds.

(d) Money appropriated to the division of state court administration does not revert at the end of a state fiscal year to the state general fund.

(e) Only volunteer guardian ad litem or court appointed special advocate programs certified by the supreme court are eligible for funding under this section.

SECTION 12. IC 33-24-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) If appropriated by the general assembly, the division of state court administration shall grant to each county with a **volunteer** guardian ad litem or court appointed special advocate program an annual appropriation calculated under the following formula:

STEP ONE: Deduct the annual appropriation to the division of state court administration for administrative expenses.

STEP TWO: Ascertain the number of children in need of services in each county, as determined by the office of family and children, during the preceding state fiscal year.

STEP THREE: Divide the result under STEP TWO by the total number of children in need of services in Indiana, as determined by the office of family and children, during the preceding fiscal year.

STEP FOUR: Multiply the result under STEP THREE by the remaining state match appropriation.

(b) If, under subsection (a), a county's grant would result in a grant of two thousand dollars (\$2,000) or less, the county is entitled to receive a grant of two thousand dollars (\$2,000). After subtracting the state match appropriation distributed to these counties from the total remaining state appropriation, the division of state court administration shall distribute the remaining state appropriation under the following formula:

STEP ONE: Subtract the total number of children in need of services in the counties covered under subsection (a) from the total number of children in need of services in Indiana as determined by the office of family and children during the preceding state fiscal year.

STEP TWO: Divide the number of children in need of services in each of the counties not covered under subsection (a) by the result under STEP ONE.

STEP THREE: Multiply the result under STEP TWO by the total remaining state match appropriation.

STEP FOUR: Distribute the result under STEP THREE to each county not covered under subsection (a)."

(Reference is to SB 340 as reprinted February 1, 2005.) and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

BUDAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred Engrossed Senate Bill 381, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, delete "IC 8-1-33-12." and insert "**IC 8-1-33-15.**"

Page 2, delete lines 40 through 42.

Delete pages 3 through 5.

Page 6, delete lines 1 through 3, begin a new paragraph and insert: "SECTION 5. IC 8-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) **Except as provided in section 1.1 of this chapter**, "public utility", as used in this chapter, means every corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the:

(1) conveyance of telegraph or telephone messages;

(2) production, transmission, delivery, or furnishing of heat, light, water, or power; or

(3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate any of the foregoing facilities.

(b) "Municipal council", as used in this chapter, means the legislative body of any town or city in Indiana wherein the property of the public utility or any part thereof is located.

(c) "Municipality", as used in this chapter, means any city or town of Indiana.

(d) "Rate", as used in this chapter, means every individual or joint rate, fare, toll, charge, rental, or other compensation of any utility or any two (2) or more such individual or joint rates, fares, tolls, charges, rentals, or other compensation of any utility or any schedule or tariff thereof, but nothing in this subsection shall give the commission any control, jurisdiction, or authority over the rate charged by a municipally owned utility except as in this chapter expressly provided.

(e) "Service" is used in this chapter in its broadest and most inclusive sense and includes not only the use or accommodation afforded consumers or patrons but also any product or commodity furnished by any public or other utility and the plant, equipment, apparatus, appliances, property, and facility employed by any public or other utility in performing any service or in furnishing any product or commodity and devoted to the purposes in which such public or other utility is engaged and to the use and accommodation of the public.

(f) "Commission", as used in this chapter, means the commission created by IC 8-1-1-2.

(g) "Utility", as used in this chapter, means every plant or equipment within the state used for:

(1) the conveyance of telegraph and telephone messages;

(2) the production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to the public; or

(3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate facilities for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste. A warehouse owned or operated by any person, firm, limited liability company, or corporation engaged in the business of operating a warehouse business for the storage of used household goods is not a public utility within the meaning of this chapter.

(h) "Municipally owned utility", as used in this chapter, includes every utility owned or operated by a municipality.

(i) "Indeterminate permit", as used in this chapter, means every grant, directly or indirectly from the state, to any corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, of power, right, or privilege to own, operate, manage, or control any plant or equipment, or any part of a plant or equipment, within this state, for the:

(1) production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to or for the public;

(2) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste; or

(3) furnishing of facilities for the transmission of intelligence by electricity between points within this state;

which shall continue in force until such time as the municipality shall exercise its right to purchase, condemn, or otherwise acquire the property of such public utility, as provided in this chapter, or until it shall be otherwise terminated according to law.

SECTION 6. IC 8-1-2-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.1. A person or an entity that:

(1) transmits communications over Internet Protocol enabled services, including:

(A) voice communications;

- (B) data;
- (C) video streams; or
- (D) any combination of voice, data, and video communications; or

(2) provides the necessary software, hardware, transmission service, or transmission path for communications described in subdivision (1);

is not a public utility (as defined in section 1 of this chapter) solely by reason of engaging in any activity described in subdivisions (1) through (2).

SECTION 7. IC 8-1-2.6-0.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.1. (a) As used in this chapter, "basic telecommunications service" means stand alone local exchange service that:

(1) is provided to a residential customer through the customer's primary line; and

(2) is:

- (A) the sole service purchased by the customer;
- (B) not part of a package of services, a promotion, or a contract; or
- (C) not otherwise offered at a discounted price.

(b) "Basic telecommunications service" includes, at a minimum, the following:

(1) Voice grade access to the public switched telephone network with minimum bandwidth of three hundred (300) to three thousand (3,000) Hertz.

(2) Dual tone multifrequency signaling and single party service.

(3) Access to:

- (A) emergency services, including access to 911 and enhanced 911 if provided by the local government having jurisdiction in the service area;
- (B) operator services;
- (C) local directory assistance;
- (D) telephone relay services; and
- (E) interexchange service.

(4) Toll limitation services for qualifying low income customers.

SECTION 8. IC 8-1-2.6-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.2. As used in this chapter, "basic telecommunications rates and charges" means the monthly recurring rate for basic telecommunications service, including:

- (1) flat rate and message rate service; and
- (2) any nonrecurring charge for installation or a line or service connection.

SECTION 9. IC 8-1-2.6-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.3. (a) As used in this chapter, "nonbasic telecommunications service" means retail telecommunications service other than:

(1) basic telecommunications service, except when the service is purchased by the customer:

- (A) in conjunction with another service;
- (B) as part of a package of services, a promotion, or a contract; or
- (C) at an otherwise discounted price;

(2) commercial mobile radio service (as defined in 47 CFR 51.5);

(3) services outside the jurisdiction of the commission under section 1.1 of this chapter; and

(4) switched and special carrier access services.

(b) The term includes services included in:

- (1) customer specific contracts;
- (2) volume, term, and discount pricing options; and
- (3) packages, bundles, and promotions, including offers designed to win new customers, retain existing customers, or win back former customers.

SECTION 10. IC 8-1-2.6-0.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.4. As used in this chapter, "provider" means a person or an entity that offers basic or nonbasic telecommunications service.

SECTION 11. IC 8-1-2.6-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.5. As used in this chapter, "telecommunications" has the meaning set forth in 47 U.S.C. 153(43).

SECTION 12. IC 8-1-2.6-0.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.6. As used in this chapter, "telecommunications service" has the meaning set forth in 47 U.S.C. 153(46).

SECTION 13. IC 8-1-2.6-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.7. As used in this chapter, "incumbent local exchange carrier" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and is either of the following:

(1) A telephone utility that on February 8, 1996, provided telephone exchange service in the geographic territory and was considered to be a member of the exchange carrier association under 47 CFR 69.601(b).

(2) A person or an entity that on or after February 8, 1996, became a successor or assignee of a member of the exchange carrier association described in subdivision (1).

SECTION 14. IC 8-1-2.6-0.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.8. As used in this chapter, "payphone service provider" means an entity, other than an incumbent local exchange carrier, that owns and operates public or semipublic pay telephones or pay telephones used to provide telephone service in correctional institutions.

SECTION 15. IC 8-1-2.6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The Indiana general assembly hereby declares that:

(1) the maintenance of universal telephone service is a continuing goal of the commission in the exercise of its jurisdiction;

(2) competition has become commonplace in the provision of ~~certain telephone~~ telecommunications services in Indiana and the United States;

(3) ~~advancements in and the convergence of technologies that provide voice, video, and data transmission, including:~~

(A) landline, wireless, cable, satellite, and Internet transmissions; and

(B) transmissions involving voice over Internet Protocol (VOIP), Internet Protocol enabled services, and voice over power lines;

are substantially increasing consumer choice, reinventing the marketplace with unprecedented speed, and making available highly competitive products and services and new methods of delivering local exchange service.

~~(3) (4) traditional commission regulatory policies, and practices, and existing statutes are not designed to deal with a competitive environment and technological advancements;~~

~~(4) (5) an environment in which Indiana consumers will have available the widest array of state-of-the-art telephone telecommunications services at the most economic and reasonable cost possible will necessitate full and fair facilities based competition in the delivery of certain telephone telecommunications services throughout the state; Indiana; and~~

~~(5) (6) streamlining of, and flexibility in, the regulation of providers of telephone telecommunications services, regardless of the technology used, is essential to the well-being of the state; Indiana, its economy, and its citizens and that the public interest requires that the commission be authorized to formulate and adopt rules and policies as will permit the commission, in the exercise of its expertise, to regulate and control the provision of telephone telecommunications services to the public in an increasingly competitive and technologically changing environment, giving due regard to the interests of consumers and the public, the ability of market forces to encourage innovation and~~

investment, and to the continued universal availability of universal telephone basic telecommunications service.

SECTION 16. IC 8-1-2.6-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.1. (a) The commission shall not exercise jurisdiction over:

- (1) advanced services (as defined in 47 CFR 51.5);
- (2) broadband service, as defined by the Federal Communications Commission; or
- (3) any service not commercially available on February 8, 1996.

(b) The commission shall not exercise jurisdiction over information services (as defined in 47 U.S.C. 153(20)) or Internet Protocol enabled services, as defined by the Federal Communications Commission, except:

- (1) as expressly permitted under IC 8-1-2.8;
- (2) as may be reasonably necessary to provide for access to emergency services, including access to 911 and enhanced 911; and
- (3) for purposes of determining the rights and obligations of any provider concerning the payment of switched network access rates or other compensation for use of another provider's facilities or services.

The commission shall not impose requirements under this subsection that exceed those imposed by, or that are otherwise inconsistent with, federal law, including federal regulations.

SECTION 17. IC 8-1-2.6-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.2. (a) Except as provided in section 16 of this chapter, the commission shall not, by entering an order, adopting a rule, or taking any other action, do any of the following:

- (1) Impose a regulation concerning any nonbasic telecommunications service unless the regulation is imposed equally and uniformly on all providers.
- (2) Impose a service quality regulation or performance standard concerning any nonbasic telecommunications service.
- (3) Exercise jurisdiction over:
 - (A) any nonbasic telecommunications service; or
 - (B) the provider of any nonbasic telecommunications service;

if the commission has declined to exercise jurisdiction over the service or provider before July 1, 2005.

(b) Subject to sections 12 and 16 of this chapter, after June 30, 2007, the commission shall not exercise jurisdiction over any nonbasic telecommunications service except as follows:

- (1) A provider may elect to file and maintain with the commission tariffs for nonbasic telecommunications services offered by the provider in Indiana. The commission shall permit a provider to implement a tariff, or a modification to a tariff, on the first day immediately following the date of filing with the commission.
- (2) The commission may investigate, on a formal or an informal basis, a complaint concerning a provider's compliance with a tariff filed with the commission under subdivision (1). The commission's investigation shall be limited to the sole issue of the provider's compliance with the filed tariff. The commission shall conduct a formal investigation only upon the request of any class satisfying the standing requirements of IC 8-1-2-54.

SECTION 18. IC 8-1-2.6-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.3. (a) The commission shall not, by entering an order, adopting a rule, or taking any other action, do any of the following with respect to basic telecommunications services and providers of basic telecommunications services:

- (1) Impose a regulation concerning any basic telecommunications service unless the regulation is imposed equally and uniformly on all providers.
- (2) Impose a service quality regulation unless the regulation is imposed equally and uniformly on all providers.
- (3) Impose a regulation or performance standard

concerning service quality that:

- (A) is more stringent than any service quality regulation or performance standard in effect on July 1, 2005; or
- (B) measures performance more often than quarterly.

(4) Impose a reporting requirement concerning service quality that requires reporting to the commission more frequently than quarterly.

(5) Impose a regulation concerning universal availability of basic telecommunications service unless the regulation is imposed on a nondiscriminatory and competitively and technologically neutral basis.

(6) Exercise jurisdiction over:

- (A) any basic telecommunications service; or
- (B) the provider of any basic telecommunications service; if the commission has declined to exercise jurisdiction over the service or provider before July 1, 2005.

(7) Impose a regulation on, or exercise jurisdiction over:

- (A) any basic telecommunications service; or
- (B) the provider of any basic telecommunications service; if the service or provider is exempt from commission jurisdiction under IC 8-1-2-88.5 or IC 8-1-17-22.5, except as allowed under IC 8-1-2-88.5 or IC 8-1-17-22.5.

(b) The commission may not exercise jurisdiction over any basic telecommunications service, including the price, terms, and conditions of providing the service, or any provider of basic telecommunications service in an exchange area in which the commission finds, after notice and hearing, that basic telecommunications service or another voice communications service that enables customers to make and receive local voice communications is available to customers from at least three (3) non-affiliated providers. The commission may make a finding under this subsection at the request of a provider or on its own motion. In determining whether at least three (3) non-affiliated providers serve an exchange area, the commission shall count the following:

- (1) Incumbent and other providers of traditional wireline telecommunications services.
- (2) Competitive local exchange services.
- (3) Commercial mobile services providers as identified in 47 U.S.C. 331(d)(1) and either 47 CFR Part 22 or 47 CFR Part 24.
- (4) Other wireless services.
- (5) Cable television operators and other broadband providers providing voice communications services.
- (6) Providers of Internet Protocol enabled services such as voice over Internet protocol (VOIP) service providers.

(c) For the purposes of making a finding under subsection (b):

- (1) a commercial mobile service provider described in subsection (b)(3) is considered an entity providing basic telecommunications or other voice communications service;
- (2) if an exchange area is served by more than one (1) commercial mobile service provider described in subsection (b)(3), the commercial mobile service providers count as only one (1) nonaffiliated provider;
- (3) an entity providing voice communications services is considered a basic telecommunications services provider regardless of whether the entity is subject to regulation by the commission; and
- (4) regardless of the technology utilized voice communications services means a two-way voice service capable of being originated and terminated with the exchange of the local exchange telecommunications company.

(d) The commission shall make a finding under subsection (b) within three (3) months after a provider's request to make a finding that at least three (3) basic telecommunications service providers or other voice communications service providers are available to the customers in an exchange area.

(e) Notwithstanding subsections (b) through (d), a provider may continue to elect to file and maintain with the commission tariffs for basic telecommunications services offered by the provider in Indiana. The commission shall permit a provider to implement a tariff or a modification to a tariff on the first day immediately following the date of filing with the commission. A

provider may withdraw without the approval of the commission any tariff filed under this subsection.

(f) The commission may investigate, on a formal or an informal basis, a complaint concerning a provider's compliance with a tariff filed with the commission under subsection (e). The commission's investigation shall be limited to the sole issue of the provider's compliance with the filed tariff. The commission shall conduct a formal investigation only upon the request of any class satisfying the standing requirements of IC 8-1-2-54.

(g) An incumbent local exchange carrier shall continue to make available a flat monthly rate with unlimited local calling for basic telecommunications services in the local calling areas in which the provider offers basic telecommunications services on July 1, 2005.

SECTION 19. IC 8-1-2.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~(a) Notwithstanding any other statute, the commission may:~~

- ~~(1) on its own motion;~~
- ~~(2) at the request of the utility consumer counselor;~~
- ~~(3) at the request of one (1) or more telephone companies; or~~
- ~~(4) at the request of any class satisfying the standing requirements of IC 8-1-2-54;~~

~~enter an order, after notice and hearing, that the public interest requires the commission to commence an orderly process to decline to exercise, in whole or in part, its jurisdiction over telephone companies or certain telephone services: (a) This section applies to commission rules and orders concerning telecommunications service or providers of telecommunications service.~~

~~(b) Rules and orders described in this section:~~

- ~~(1) may be adopted or issued only after notice and hearing; and~~
- ~~(2) must be:~~
 - ~~(A) consistent with this chapter; and~~
 - ~~(B) in the public interest, as determined by the commission under subsection (d).~~

~~(c) Rules and orders described in this section must promote one (1) or more of the following:~~

- ~~(1) Cost minimization for providers to the extent that a provider's quality of service and facilities are not diminished.~~
- ~~(2) A more accurate evaluation by the commission of a provider's physical or financial conditions or needs as well as a less costly regulatory procedure for either the provider, the provider's customers, or the commission.~~
- ~~(3) Development of depreciation guidelines and procedures that recognize technological obsolescence.~~
- ~~(4) Increased provider management efficiency beneficial to customers.~~
- ~~(5) Regulation consistent with a competitive environment.~~

~~(b) (d) In determining whether the public interest will be served, as required under subsection (b), the commission shall consider:~~

- ~~(1) whether technological change, competitive forces, or regulation by other state and federal regulatory bodies render the exercise of jurisdiction by the commission unnecessary or wasteful;~~
- ~~(2) whether the exercise of commission jurisdiction produces tangible benefits to telephone company the customers of providers; and~~
- ~~(3) whether the exercise of commission jurisdiction inhibits a regulated entity from competing with unregulated providers of functionally similar telephone telecommunications services or equipment.~~

~~(c) The commission may:~~

- ~~(1) on its own motion;~~
- ~~(2) at the request of the utility consumer counselor;~~
- ~~(3) at the request of one (1) or more telephone companies; or~~
- ~~(4) at the request of any class satisfying the standing requirements of IC 8-1-2-54;~~

~~enter an order notifying any telephone company or class of telephone companies jurisdiction over which was either limited or not exercised according to this section that the commission will proceed to exercise jurisdiction over the telephone company, class of telephone companies, or class of telephone services provided by telephone~~

~~companies to the extent the commission considers appropriate unless one (1) or more of those telephone companies formally request a hearing within fifteen (15) days following the date of such order.~~

SECTION 20. IC 8-1-2.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A regulatory flexibility committee is established to monitor competition in the telephone industry.

(b) The committee is composed of the members of a house standing committee selected by the speaker of the house of representatives and a senate standing committee selected by the president pro tempore of the senate. In selecting standing committees under this subsection, the speaker and president pro tempore shall determine which standing committee of the house of representatives and the senate, respectively, has subject matter jurisdiction that most closely relates to the electricity, gas, energy policy, and telecommunications jurisdiction of the regulatory flexibility committee. The chairpersons of the standing committees selected under this subsection shall cochair the regulatory flexibility committee.

(c) The commission shall, by July 1 of each year, prepare for presentation to the regulatory flexibility committee an analysis of the effects of competition and technological change on universal service and on pricing of all telephone telecommunications services remaining under the jurisdiction of the commission.

(d) In addition to reviewing the commission report prepared under subsection (c), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

- (1) The effects of competition in the telephone telecommunications industry and impact of competition and technological change on available subsidies used to maintain universal service.
- (2) The status of modernization of the public switched telephone network in Indiana and the incentives required to further enhance this infrastructure.
- (3) The effects on economic development and educational opportunities of this modernization.
- (4) The current method of regulating telephone companies telecommunications providers and the method's effectiveness.
- (5) The economic and social effectiveness of current telephone telecommunications service pricing.
- (6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(e) The regulatory flexibility committee shall meet on the call of the cochairpersons to study telecommunications issues described in subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

SECTION 21. IC 8-1-2.6-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) Not later than:

- (1) July 1, 2007; and
 - (2) July 1 of each odd-numbered year after July 1, 2007;
- the commission shall, through rulemaking under IC 4-22-2 or another commission proceeding, identify and eliminate regulations and policies concerning telecommunications services and providers that are no longer necessary or appropriate as a result of technological advancement and competition in the telecommunications industry.

(b) In carrying out this section, the commission shall promote the policies and purposes set forth in this chapter. The commission's annual report to the regulatory flexibility committee under section 4 of this chapter must:

- (1) identify any regulation or policy eliminated under this section; and
- (2) justify any regulation or policy that is retained.

SECTION 22. IC 8-1-2.6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this section, "rate reduction" means a decrease in either recurring or nonrecurring rates or charges.

(b) Notwithstanding any other provision of this chapter or any other statute, a ~~telephone company provider~~ may ~~subject to the prior approval of the commission~~, participate in any rate reduction program for residential customers funded from revenues provided by any governmental entity or other revenues administered by an agency of that entity.

SECTION 23. IC 8-1-2.6-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. (a) The commission shall not, when acting under any authority delegated to the commission by federal law, including when conducting arbitration of interconnection agreements under the federal Telecommunications Act of 1996, 47 U.S.C. 251 et seq., impose any requirements or set any prices concerning:**

- (1) unbundled network elements;
- (2) the resale of telecommunications services; or
- (3) interconnection with the facilities and equipment of providers;

that exceed, or are otherwise inconsistent with, federal laws and regulations.

(b) The commission shall establish reasonable pricing for unbundled network elements, the resale of telecommunications services, and interconnection in accordance with the federal Telecommunications Act of 1996, 47 U.S.C. 251 et seq., and all other federal laws and regulations.

(c) This chapter does not affect:

- (1) the commission's continuing authority to resolve interconnection disputes between telecommunications carriers that arise under the federal Telecommunications Act of 1996, 47 U.S.C. 251 et seq.; or
- (2) a provider's ability to file a complaint with the commission to have a dispute, after notice and hearing, decided by the commission.

SECTION 24. IC 8-1-2.6-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) Notwithstanding any other law, the commission shall not, by entering an order, adopting a rule, or taking any other action, impose a regulation or performance standard concerning the transfer of customers between providers unless the regulation or performance standard is imposed equally and uniformly on all providers.**

(b) After a customer's telecommunications services have been ported, the initial provider may, to the extent permitted by federal law and by IC 24-4.7-4, contact the customer to confirm that the customer has made the decision to change to the other provider.

(c) A provider may not refuse to transfer or facilitate the transfer of a local exchange service customer of the provider to another provider on the same terms and conditions that the provider receives from any other provider unless the terms and conditions violate federal law.

SECTION 25. IC 8-1-2.6-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12. This chapter does not terminate or otherwise change the terms and conditions of a settlement agreement approved by the commission under this chapter before July 29, 2004.**

SECTION 26. IC 8-1-2.6-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 13. This chapter does not modify, affect, or nullify the responsibilities lawfully delegated to the commission under:**

- (1) 47 U.S.C. 251; and
- (2) 47 U.S.C. 252.

SECTION 27. IC 8-1-2.6-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14. This chapter does not affect the rights and obligations of any person or entity concerning the payment of switched network access rates or other carrier compensation concerning:**

- (1) Internet Protocol enabled service;
- (2) advanced services (as defined in 47 CFR 51.5);
- (3) broadband service; or

(4) other Internet access services.

SECTION 28. IC 8-1-2.6-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. (a) Except as provided in subsection (b), if there is a conflict between this chapter and another provision of this article, this chapter controls.**

(b) This chapter does not affect the rights of a telecommunications provider under IC 8-1-2-88.5 or IC 8-1-17-22.5.

SECTION 29. IC 8-1-2.6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 16. Notwithstanding any other statute, the commission shall retain jurisdiction to establish just and reasonable rates that may be charged by an incumbent local exchange carrier to a payphone service provider. Rates established under this section must be:**

- (1) based on the costs incurred by the incumbent local exchange carrier to provide the service;
- (2) consistent with the requirements of 47 U.S.C. 276;
- (3) nondiscriminatory; and
- (4) consistent with the pricing guidelines for payphone service providers established by the Federal Communications Commission.

SECTION 30. IC 8-1-2.8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. As used in this chapter, "local exchange telephone company" or "LEC" means a company authorized by the commission to provide, among other services, local exchange access service. The term includes a provider of Internet Protocol enabled services that is required to provide dual party relay services to hearing impaired and speech impaired persons under federal law.**

SECTION 31. IC 8-1-19.5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14. (a) Notwithstanding IC 8-1-2.6, the commission may retain:**

- (1) jurisdiction over the rates, charges, and service quality of 211 services provided by telecommunications providers; and
- (2) the authority to fulfill the commission's duties under this chapter.

(b) The commission may not impose a rule concerning the service quality of 211 services provided by a telecommunications provider unless the rule is imposed equally and uniformly on all telecommunications providers.

(c) Upon a petition by:

- (1) a telecommunications provider; or
- (2) a recognized 211 services provider;

the commission may formally or informally investigate a telecommunications provider's rates and charges to determine whether the rates and charges are just and reasonable. For purposes of this section, a rate is considered reasonable if the rate covers the telecommunications provider's costs and allows a reasonable profit."

Page 7, between lines 2 and 3, begin a new paragraph and insert:

"Sec 2. As used in this chapter, "affordable broadband services" means broadband services that are available at a price reasonably comparable to the price charged for broadband services in an area that is not an underserved area."

Page 7, line 3, delete "2." and insert "3."

Page 7, line 5, delete "3." and insert "4."

Page 7, line 8, delete "4." and insert "5."

Page 7, line 10, delete "16" and insert "15".

Page 7, line 11, delete "5." and insert "6."

Page 7, line 15, delete "6." and insert "7."

Page 7, line 18, delete "7." and insert "8."

Page 7, line 27, delete "in the" and insert "under this section".

Page 7, line 28, delete "definition of the term".

Page 7, line 30, delete "8." and insert "9."

Page 7, line 34, delete ", maintaining, and operating" and insert "and maintaining".

Page 8, delete lines 11 through 13.

Page 8, line 15, after "corporation," insert "a rural electric membership corporation,".

Page 8, line 41, delete "this section;" and insert "section 14 of this chapter;"

Page 9, line 6, delete "in" and insert "within one hundred (100) miles of".

Page 9, line 40, after "15." insert "(a)".

Page 10, delete lines 7 through 14.

Page 10, line 15, delete "Indiana development finance".

Page 10, delete lines 17 through 42.

Page 11, delete lines 1 through 5.

Page 11, line 6, delete "18." and insert "16".

Page 11, delete lines 9 through 11.

Page 11, line 12, delete "(2)" and insert "(1)".

Page 11, line 15, delete "(3)" and insert "(2)".

Page 11, line 17, delete "(4)" and insert "(3)".

Page 11, line 19, delete "infrastructure." and insert "infrastructure serving underserved areas."

Page 11, line 20, delete "(5)" and insert "(4)".

Page 11, delete lines 25 through 27.

Page 11, line 28, delete "(7)" and insert "(5)".

Page 11, line 32, delete "(8)" and insert "(6)".

Page 11, between lines 38 and 39, begin a new line block indented and insert:

"(7) To make expenditures necessary to carry out the authority's duties under this chapter, including paying the authority's operating expenses."

Page 12, delete lines 4 through 42.

Page 13, delete lines 1 through 41, begin a new paragraph and insert:

"SECTION 32. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 8-1-2.6-3; IC 8-1-2.6-5; IC 8-1-2.6-7.

SECTION 33. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Not later than November 15, 2006, the commission shall submit to the regulatory flexibility committee established by IC 8-1-2.6-4 a report that includes an analysis of the following issues:

(1) The status of competition in Indiana within the wireline and wireless telecommunications industries and between the wireline and wireless telecommunications industries.

(2) The level of concentration of ownership in the telecommunications industry and the degree to which corporate mergers, acquisitions, and buyouts within the industry affect consumer choices and pricing in Indiana.

(3) For each county in Indiana, a breakdown of the number of available providers of the following services:

(A) Wireline telephone services.

(B) Wireless telephone services.

(C) Wireless broadband services.

(D) Broadband services other than wireless broadband services.

The commission shall pay particular attention to the availability of broadband services in underserved areas (as defined in IC 8-1-33-12, as added by this act).

(4) The effects of the following on universal service in Indiana:

(A) The convergence of telecommunications services and technologies.

(B) State and federal regulatory decisions.

(5) The degree to which the use of new technologies in the telecommunications industry affects the reliability of telecommunications services, including the provision of enhanced 911 services and 211 services.

(6) The impact on consumers and telecommunications providers of:

(A) federal telecommunications laws and regulations; and

(B) state and federal judicial decisions concerning telecommunications laws and regulations.

(7) A comparison of Indiana's contributions to the federal universal services fund versus federal universal service fund allocations or discounts provided to eligible recipients in Indiana.

(c) The report prepared under this SECTION may be made in conjunction with the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4. The commission shall include in the report any recommendations for proposed legislation concerning the issues analyzed in the report.

(d) The commission shall involve the following entities in the development of the report under this SECTION:

(1) Colleges and universities.

(2) Rural electric membership corporations.

(3) Incumbent local exchange carriers.

(4) Competitive local exchange carriers.

(5) Cable television providers."

Renumber all SECTIONS consecutively.

(Reference is to SB 381 as reprinted February 23, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 2.

MURPHY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 422, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 22, delete "subsection" and insert "subdivision".

Page 5, line 25, delete "to" and insert "for".

(Reference is to SB 422 as printed February 4, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 3.

FOLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Engrossed Senate Bill 480, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 2. IC 3-7-48-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as otherwise provided by NVRA or in this chapter, a person whose name does not appear on the registration record may not vote a regular official ballot, unless the circuit court clerk or board of county voter registration office provides a signed certificate of error in the office where the permanent registration record is kept showing that the voter is legally registered in the precinct where the voter resides.

(b) A person whose name does not appear on the registration record may If a person who is provided with a certificate of error under this section is then challenged under IC 3-10-1 or IC 3-11-8, the person must cast a provisional ballot as provided in IC 3-11-7 instead of a regular official ballot. The person may proceed to cast the provisional ballot after executing the affidavit required under IC 3-10-1 or IC 3-11-8.

SECTION 3. IC 3-7-48-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. If a voter makes an oral or written affirmation under section 5 or 7 of this chapter and is then challenged under IC 3-10-1 or IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The affidavit executed under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7."

Page 2, line 32, delete ":".

Page 2, line 33, strike "(1)".

Page 2, line 33, after "vote" insert "a regular official ballot".

Page 2, line 34, delete ";".

Page 2, line 34, strike "or" and insert "in accordance with IC 3-7-48, showing that the voter is registered in the precinct where the voter resides and offers to vote, produces an affidavit executed under IC 3-10-11 if the voter executed an affidavit

under that chapter, or makes an oral or written affirmation under IC 3-10-12. However, if the voter is then challenged under section 10.5 of this chapter, the voter must".

Page 2, line 35, strike "(2)".

Page 2, line 36, delete "15482." and insert "15482 instead of a regular official ballot if the voter wishes to cast a ballot".

Page 3, line 1, strike "is entitled to" and insert "must".

Page 3, line 1, strike "under".

Page 3, line 2, strike "IC 3-11.7" and insert "instead of a regular official ballot if the voter wishes to cast a ballot. The voter may proceed to cast a provisional ballot".

Page 3, between lines 2 and 3, begin a new paragraph and insert: "SECTION 6. IC 3-10-1-24.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24.5. (a) This section does not apply to a precinct in a county with a computerized registration system whose inspector was:

(1) furnished with a list certified under IC 3-7-29; and

(2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote a **regular official ballot, unless the voter is challenged by a poll clerk under this section or was challenged under this chapter before signing the poll list.**

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. **If the poll clerk executes a challenger's affidavit under this section, the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 10.5 of this chapter.**

(d) If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21, ~~or if the voter executes a challenged voter's affidavit under IC 3-11-8-22;~~ the voter may then vote a **regular official ballot unless the voter was challenged under this chapter before signing the poll list.**

~~(d)~~ (e) This section expires January 1, 2006.

SECTION 7. IC 3-10-1-24.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24.6. (a) This section applies after December 31, 2005.

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote a **regular official ballot unless the voter is challenged by a poll clerk under this section or was challenged under this chapter before signing the poll list.**

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. **If the poll clerk executes a challenger's affidavit under this section, the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 10.5 of this chapter.**

(d) If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21, ~~or if the voter executes a challenged voter's affidavit under IC 3-11-8-22;~~ the voter may then vote a **regular official ballot unless the voter was challenged under this chapter before signing the poll list.**

SECTION 8. IC 3-10-10-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. **If a voter executes an affidavit under this chapter and is then challenged under IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The affidavit executed under this chapter serves as a sufficient**

affidavit for the voter to receive a provisional ballot under IC 3-11.7.

SECTION 9. IC 3-10-11-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. **If a voter executes an affidavit under this chapter and is then challenged under IC 3-10-1 or IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The affidavit executed under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7.**

SECTION 10. IC 3-10-12-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. **If a voter makes an oral or written affirmation under this chapter and is then challenged under IC 3-10-1 or IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The oral or written affirmation made under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7.**

SECTION 11. IC 3-11-1.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) If the co-directors or designated employee election division determines that the proposed precinct establishment order would comply with this chapter, the co-directors shall advise the county executive that the co-directors will recommend that the commission approve the proposed order based on the order's compliance. ~~the election division shall issue an order authorizing the county executive to establish the proposed precincts.~~

(b) The order issued by the election division under subsection (a) must state that the election division finds that the proposed precincts would comply with the standards set forth in this chapter. The election division shall promptly provide a copy of the order to the county executive.

(c) The county executive must give notice of the proposed order to the voters of the county by one (1) publication under IC 5-3-1-4. The notice must state the following:

(1) The name of each existing precinct whose boundaries would be changed by the adoption of the proposed order by the county.

(2) That any registered voter of the county may object to the proposed order by filing a sworn statement with the election division setting forth the voter's specific objections to the proposed order and requesting that a hearing be conducted by the commission under IC 4-21.5.

(3) The mailing address of the election division.

(4) The deadline for filing the objection with the election division under this section.

(d) An objection to a proposed precinct establishment order must be filed not later than noon ten (10) days after the publication of the notice by the county executive.

(e) If an objection is not filed with the election division by the date and time specified under subsection (d), the election division shall promptly notify the county executive. The county executive may proceed immediately to adopt the proposed order.

(f) If an objection is filed with the election division by the date and time specified under subsection (d), the election division shall promptly notify the county executive. The county executive may not adopt the proposed order until the commission conducts a hearing under IC 4-21.5 and determines whether the proposed precincts would comply with the standards set forth in this chapter.

SECTION 12. IC 3-11-1.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. When a county executive receives a proposed order approved by:

(1) the election division; or

(2) the commission under section 18(f) of this chapter, the county executive may issue the order.

SECTION 13. IC 3-11-1.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. Not later than fourteen (14) days following notice of final approval of a precinct establishment order by the commission under section 18(f) of this

chapter, the county executive shall give notice of the approval by one (1) publication under IC 5-3-1-4.

SECTION 14. IC 3-11-1.5-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. **(a) This section applies to a proposed precinct establishment order that requires that a hearing by the commission be conducted under this chapter.**

(b) After the ~~co-directors~~ **have election division** has reviewed the proposed precinct establishment order, and the order has been revised, if necessary, to comply with this chapter, the commission shall:

- (1) approve a proposed precinct establishment order under this section ~~no~~ **not** later than the following January 31; and
- (2) order that the precinct establishment order takes effect January 31 of the year in which the municipal election will be held."

Page 3, between lines 23 and 24, begin a new paragraph and insert: "SECTION 15. IC 3-11-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Only the following persons are permitted in the polls during an election:

- (1) Members of a precinct election board.
- (2) Poll clerks and assistant poll clerks.
- (3) Election sheriffs.
- (4) Deputy election commissioners.
- (5) Pollbook holders.
- (6) Watchers.
- (7) Voters for the purposes of voting.
- (8) Minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29.
- (9) An assistant to a precinct election officer appointed under IC 3-6-6-39.
- (10) An individual authorized to assist a voter in accordance with IC 3-11-9.
- (11) A member of a county election board, acting on behalf of the board.
- (12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).
- (13) Either of the following who have been issued credentials signed by the members of the county election board:

- (A) The county chairman of a political party.
- (B) The county vice chairman of a political party.

(14) The secretary of state, as chief election officer of the state, unless the individual serving as secretary of state is a candidate for nomination or election to an office at the election.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place."

Page 4, line 3, strike "is entitled to" and insert "**must**".

Page 4, line 3, strike "under IC 3-11.7" and insert "**instead of a regular official ballot if the voter wishes to cast a ballot. The voter may proceed to cast a provisional ballot**".

Page 4, line 30, after "vote" insert "**a regular official ballot**".

Page 4, line 40, strike "under".

Page 4, line 41, strike "IC 3-11.7" and insert "**instead of a regular official ballot if the voter wishes to cast a ballot. The voter may proceed to cast a provisional ballot**".

Page 4, delete line 42, begin a new paragraph and insert:

"SECTION 19. IC 3-11-8-25, AS AMENDED BY SEA 483-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall

produce the proof of identification before being permitted to sign the poll list.

(c) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot.

(e) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election.

(f) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

- (1) The voter's name.
- (2) The voter's current residence address.

(g) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

- (1) ask the voter to provide the voter's voter identification number;
- (2) tell the voter the number the voter may use as a voter identification number; and
- (3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(h) The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 or IC 3-11-3-18 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, in addition to the proof of identification required under subsection (b), a piece of identification described in subsection (i) to the poll clerk.

(i) As required by 42 U.S.C. 15483, in addition to the proof of identification required under subsection (b), a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

- (1) a current and valid photo identification; or
- (2) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(j) If a voter presents a document under subsection (i), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(k) If a voter required to present documentation under subsection (i) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(l) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

(m) This subsection does not apply to a precinct in a county with a computerized registration system whose inspector was:

- (1) furnished with a list certified under IC 3-7-29; and
- (2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the

comparison of signatures under this section.

In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote **a regular official ballot unless the voter is challenged by a poll clerk under this section or has been previously challenged under this chapter.** If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(n) If, in a precinct governed by subsection (m), the poll clerk executes a challenger's affidavit, the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 22 of this chapter.

~~(m)~~ **(o)** If, in a precinct governed by subsection (m),

- ~~(1)~~ the poll clerk does not execute a challenger's affidavit, ~~or~~
- ~~(2)~~ the voter executes a challenged voter's affidavit under section 22 of this chapter or had executed the affidavit before signing the poll list;

the voter may then vote **a regular official ballot unless the voter was challenged under this chapter before signing the poll list.**

~~(p)~~ **(p)** This section expires January 1, 2006.

SECTION 20. IC 3-11-8-25.1, AS AMENDED BY SEA 483-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.1. (a) This section applies after December 31, 2005.

(b) Except as provided in subsection (f), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(c) Except as provided in subsection (f), before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(d) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(e) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot.

(f) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election.

(g) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

- (1) The voter's name.
- (2) Except as provided in subsection ~~(f)~~, **(m)**, the voter's current residence address.

(h) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

- (1) ask the voter to provide or update the voter's voter identification number;
- (2) tell the voter the number the voter may use as a voter identification number; and
- (3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(i) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to provide proof of

identification.

(j) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote **a regular official ballot unless the voter is challenged by a poll clerk under this section or was challenged under this chapter before signing the poll list.** If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(k) If, in a precinct governed by subsection (h), the poll clerk executes a challenger's affidavit, then the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 22 of this chapter.

~~(l)~~ **(l)** If, in a precinct governed by subsection (h):

- ~~(1)~~ the poll clerk does not execute a challenger's affidavit ~~or~~
- ~~(2)~~ the voter executes a challenged voter's affidavit under section 22 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote **a regular official ballot unless the voter was challenged under this chapter before signing the poll list.**

~~(m)~~ **(m)** Each line on a poll list sheet provided to take a voter's current address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list."

Delete page 5.

Page 6, delete lines 1 through 28.

Page 6, line 33, strike "is entitled to" and insert "**must**".

Page 6, line 33, strike "under".

Page 6, line 34, strike "IC 3-11.7" and insert "**instead of a regular official ballot if the voter wishes to cast a ballot. The voter may then proceed to cast a provisional ballot**".

Page 10, line 39, strike "may" and insert "**must**".

Page 10, line 40, after "ballot" insert "**instead of a regular official ballot**".

Page 10, line 40, delete ":" and insert "**wishes to cast a ballot. The individual may then proceed to cast a provisional ballot if the individual:**".

Page 11, line 5, strike "may" and insert "**must**".

Page 11, line 5, delete "." and insert "**instead of a regular official ballot if the individual wishes to cast a ballot.**".

Page 11, delete lines 6 through 40, begin a new paragraph and insert:

"SECTION 29. IC 3-11.7-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. **(a)** If the counters cannot agree whether to count a ballot following a protest under section 9 of this chapter, the question shall be referred to the county election board for a decision.

(b) If both counters agree whether or not to count a ballot (either before or after a protest under section 9 of this chapter), the recommendation of the counting team shall be referred to the county election board. The county election board shall make the board's decision whether to count or not count the ballot in accordance with this title."

Page 14, delete lines 5 through 10, begin a new paragraph and insert:

"(e) Whenever the petitioner and each cross-petitioner or respondent file a joint motion to dismiss a recount or contest, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or contest."

Renumber all SECTIONS consecutively.

(Reference is to SB 480 as printed February 8, 2005.) and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 4.

THOMAS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred Engrossed Senate Bill 493, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 31, after "University," insert "**Vincennes University**,".

Page 4, line 39, after "universities" delete "" and insert "".

(Reference is to SB 493 as printed February 8, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 0.

RUPPEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Engrossed Senate Bill 523, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete line 17.

Page 2, line 18, delete "(C)" and insert "**(B)**".

Page 2, line 19, delete "(D)" and insert "**(C)**".

Page 2, line 20, delete "(E)" and insert "**(D)**".

Page 2, line 21, delete "(F)" and insert "**(E)**".

(Reference is to SB 523 as printed February 18, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

BUDAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Engrossed Senate Bill 529, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, between lines 35 and 36, begin a new paragraph and insert:
"SECTION 6. IC 10-13-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this chapter, "criminal justice agency" means any agency or department of any level of government whose principal function is:

(1) the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;

(2) the location of parents with child support obligations under 42 U.S.C. 653;

(3) the licensing and regulating of riverboat gambling operations; or

(4) the licensing and regulating of pari-mutuel horse racing operations.

(b) The term includes the following:

(1) The office of the attorney general.

(2) The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.

(3) A nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

~~(4) The division of family and children or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement~~

for a:

~~(A) child at imminent risk of placement;~~

~~(B) child in need of services; or~~

~~(C) delinquent child.~~

SECTION 7. IC 10-13-3-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. As used in this chapter, "emergency placement" means an emergency out-of-home placement of a child by the department of child services established by IC 31-33-1.5-2 or a court as a result of exigent circumstances, including an out-of-home placement under IC 31-34-2 or IC 31-34-4, or the sudden unavailability of the child's parent, guardian, or custodian. The term does not include placement to an entity or in a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 8. IC 10-13-3-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.5. As used in this chapter, "national name based criminal history record check" means a query of the Interstate Identification Index data base maintained by the Federal Bureau of Investigation that:

(1) is conducted using the subject's name; and

(2) does not use fingerprint identification or another method of positive identification.

SECTION 9. IC 10-13-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has applied for a license and criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services established by IC 31-33-1.5-2 or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;

~~(9)~~ **(10)** has volunteered services at a public school (as defined in IC 20-10.1-1-2) or nonpublic school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;

~~(10)~~ **(11)** is being investigated for welfare fraud by an investigator of the division of family and children or a county office of family and children;

~~(11)~~ **(12)** is being sought by the parent locator service of the child support bureau of the division of family and children;

~~(12)~~ **(13)** is or was required to register as a sex and violent offender under IC 5-2-12; or

~~(13)~~ **(14)** has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

- (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- (J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

- (1) Federally chartered or insured banking institutions.
- (2) Officials of state and local government for any of the following purposes:
 - (A) Employment with a state or local governmental entity.
 - (B) Licensing.
- (3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 10. IC 10-13-3-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 27.5. (a) If:**

- (1) exigent circumstances require the emergency placement of a child; and**
- (2) the department will be unable to obtain criminal history information from the Interstate Identification Index before the emergency placement is scheduled to occur;**

upon request of the department of child services established by IC 31-33-1.5-2, a caseworker, or a juvenile probation officer, the department may conduct a national name based criminal history record check of each individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location. The department shall promptly transmit a copy of the report it receives from the Interstate Identification Index to the agency or person that submitted a request under this section.

(b) Not later than seventy-two (72) hours after the department of child services, the caseworker, or the juvenile probation officer receives the results of the national name based criminal history record check, the department of child services, the caseworker, or the juvenile probation officer shall provide the department with a complete set of fingerprints for each individual who is currently residing in the location designated as the out-of-home placement at the time the child will be placed in the location. The department shall:

- (1) use fingerprint identification to positively identify each individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location; or**
- (2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) days after the date on which the national name based criminal history record check was conducted.**

The child shall be removed from the location designated as the out-of-home placement if an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location fails to provide a complete set of fingerprints to the department of child services, the caseworker, or the juvenile probation officer.

(c) The department and the person or agency that provided fingerprints shall comply with all requirements of 42 U.S.C. 5119a and any other applicable federal law or regulation regarding:

- (1) notification to the subject of the check; and**
- (2) the use of the results obtained based on the check of the person's fingerprints.**

(d) If an out-of-home placement is denied as the result of a national name based criminal history record check, an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location may contest the denial by submitting to the department of child services, the caseworker, or the juvenile probation

officer:

- (1) a complete set of the individual's fingerprints; and**
 - (2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to forward the fingerprints to the department for submission to the Federal Bureau of Investigation;**
- not later than five (5) days after the out-of-home placement is denied.**

(e) The:

- (1) department; and**
- (2) Federal Bureau of Investigation;**

may charge a reasonable fee for processing a national name based criminal history record check. The department shall adopt rules under IC 4-22-2 to establish a reasonable fee for processing a national name based criminal history record check and for collecting fees owed under this subsection.

(f) The:

- (1) department of child services, for an out-of-home placement arranged by a caseworker or the department of child services; or**
- (2) juvenile court, for an out-of-home placement ordered by the juvenile court;**

shall pay the fee described in subsection (e), arrange for fingerprinting, and pay the costs of fingerprinting, if any.

SECTION 11. IC 10-13-3-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 39. (a)** The department is designated as the authorized agency to receive requests for, process, and disseminate the results of national criminal history background checks that comply with this section and 42 U.S.C. 5119a.

(b) A qualified entity may contact the department to request a national criminal history background check on any of the following persons:

- (1)** A person who seeks to be or is employed with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person is initially employed by the qualified entity.
- (2)** A person who seeks to volunteer or is a volunteer with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person initially volunteers with the qualified entity.

(c) A qualified entity must submit a request under subsection (b) in the form required by the department and provide a set of the person's fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check for convictions described in IC 20-5-2-8. The department shall respond to the request in conformity with:

- (1)** the requirements of 42 U.S.C. 5119a; and
- (2)** the regulations prescribed by the Attorney General of the United States under 42 U.S.C. 5119a.

(e) This subsection applies to a qualified entity that:

- (1)** is not a school corporation or a special education cooperative; or
- (2)** is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the applicant has been convicted of an offense described in IC 20-5-2-8 and convey the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

- (1)** is a school corporation or a special education cooperative; and
- (2)** seeks a national criminal history background check to determine whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.

After receiving the results of a national criminal history background

check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-5-2-8 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L. 92-544, (86 Stat. 1115) (1972).

(g) This subsection applies to a qualified entity (as defined in IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall provide a copy to the public agency. Except as permitted by federal law, the public agency may not share the information contained in the national criminal history background check with a private agency."

Page 6, line 15, delete "IC 31-33-1.5." and insert "IC 31-33-1.5-2."

Page 8, between lines 9 and 10, begin a new paragraph and insert: "SECTION 21. IC 12-13-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The division shall administer the following:

- (1) The Community Services Block Grant under 42 U.S.C. 9901 et seq.
- (2) The Low Income Home Energy Assistance Block Grant under 42 U.S.C. 8621 et seq.
- (3) The United States Department of Energy money under 42 U.S.C. 6851 et seq.
- (4) The domestic violence prevention and treatment fund under IC 12-18-4.
- (5) The Child Care and Development Block Grant under ~~42 U.S.C. 658 et seq.~~ **42 U.S.C. 9858 et seq.**
- (~~6~~) ~~Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.~~
- (~~7~~) ~~Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.~~
- (~~8~~) ~~The federal Food Stamp Program under 7 U.S.C. 2011 et seq.~~
- (~~9~~) ~~(7) The Social Services Block Grant under 42 U.S.C. 1397 et seq.~~
- (~~10~~) ~~(8) Title IV-A of the federal Social Security Act.~~
- (~~11~~) ~~(9) Any other funding source:~~
 - (A) designated by the general assembly; or
 - (B) available from the federal government under grants that are consistent with the duties of the division.

SECTION 22. IC 12-13-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The division is the single state agency responsible for administering the following:

- (1) The Child Care and Development Block Grant under ~~42 U.S.C. 658 et seq.~~ **42 U.S.C. 9858 et seq.** The division shall apply to the United States Department of Health and Human Services for a grant under the Child Care Development Block Grant.
- (~~2~~) ~~Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.~~
- (~~3~~) ~~Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.~~
- (~~4~~) ~~(2) The federal Food Stamp Program under 7 U.S.C. 2011 et seq.~~
- (~~5~~) ~~(3) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.~~

SECTION 23. IC 12-13-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A child fatality review consists of determining:

- (1) whether similar future deaths could be prevented; and
- (2) agencies or resources that should be involved to adequately prevent future deaths of children.

(b) In conducting the child fatality review under subsection (a), the local child fatality review team shall review every record concerning the deceased child that is held by the department of child services.

SECTION 24. IC 12-13-15.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A child fatality

review conducted by the statewide child fatality review committee under this chapter must consist of determining:

- (1) whether similar future deaths could be prevented; and
- (2) agencies or resources that should be involved to adequately prevent future deaths of children.

(b) In conducting the child fatality review under subsection (a), the statewide child fatality review committee shall review every record concerning the deceased child that is held by:

- (1) the department of child services; or
- (2) a local child fatality review team.

SECTION 25. IC 12-13-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 16. Children's Social, Emotional, and Behavioral Health Plan

Sec. 1. (a) The department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall develop and coordinate the children's social, emotional, and behavioral health plan that is to provide recommendations concerning:

- (1) comprehensive mental health services;
- (2) early intervention; and
- (3) treatment services;

for individuals from birth through twenty-two (22) years of age.

(b) The department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall adopt joint rules under IC 4-22-2 concerning the children's social, emotional, and behavioral health plan.

(c) The department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall conduct hearings on the implementation of the plan before adopting joint rules under this chapter.

Sec. 2. The children's social, emotional, and behavioral health plan shall recommend:

- (1) procedures for the identification and assessment of social, emotional, and mental health issues;
- (2) procedures to assist a child and the child's family to attain necessary services to treat social, emotional, and mental health issues;
- (3) procedures to coordinate provider services and interagency referral networks for an individual from birth through twenty-two (22) years of age;
- (4) guidelines for incorporating social, emotional, and behavioral development into school learning standards and education programs;
- (5) that social, emotional, and mental health screening be included as a part of routine examinations in schools and by health care providers;
- (6) procedures concerning the positive development of children, including:
 - (A) social, emotional, and behavioral development;
 - (B) learning; and
 - (C) behavioral health;
- (7) plans for creating a children's social, emotional, and behavioral health system with shared accountability among state agencies that will:
 - (A) conduct ongoing needs assessments;
 - (B) use outcome indicators and benchmarks to measure progress; and
 - (C) implement quality data tracking and reporting systems;
- (8) a state budget for children's social, emotional, and mental health prevention and treatment;
- (9) how state agencies and local entities can obtain federal funding and other sources of funding to implement a children's social, emotional, and behavioral health plan;
- (10) how to maintain and expand the workforce to provide mental health services for individuals from birth through twenty-two (22) years of age and families;
- (11) how employers of mental health professionals may:
 - (A) improve employee job satisfaction; and
 - (B) retain employees;

(12) how to facilitate research on best practices and model programs for children's social, emotional, and behavioral health;

(13) how to disseminate research and provide training and educational materials concerning the children's social, emotional, and behavioral health program to:

- (A) policymakers;
- (B) practitioners; and
- (C) the general public; and

(14) how to implement a public awareness campaign to:

- (A) reduce the stigma of mental illness; and
- (B) educate individuals:
 - (i) about the benefits of children's social, emotional, and behavioral development; and
 - (ii) how to access children's social, emotional, and behavioral development services.

SECTION 26. IC 12-14-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Family preservation services may provide:

- (1) comprehensive, coordinated, flexible, and accessible services;
- (2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;
- (3) services to families who have members placed in care settings outside the nuclear family; and
- (4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

(b) Unless authorized by a juvenile court, family preservation services may not include a temporary out-of-home placement if a person who:

- (1) is currently residing in the location designated as the out-of-home placement; or
- (2) in the reasonable belief of family preservation services is expected to be residing in the location designated as the out-of-home placement during the time the child at imminent risk of placement would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 12-17.4-4-11.

(c) Before placing a child at imminent risk of placement in a temporary out-of-home placement, the county office of family and children shall conduct a criminal history check (as defined in ~~IC 31-9-2-29.7~~ IC 31-9-2-22.5) for each person described in subsection (b)(1) and (b)(2). However, the county office of family and children is not required to conduct a criminal history check under this section if the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 27. IC 12-17-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

- (1) a prosecuting attorney; ~~or~~
- (2) a private attorney if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee (established by IC 33-24-11-1); ~~or~~
- (3) **a collection agency licensed under IC 25-11 to collect arrearages on child support orders pursuant to which collections have not been made on arrearages for at least two (2) years;**

in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(b) The hiring of an attorney by an agreement or a contract made under this section is not subject to the approval of the attorney general

under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(c) Subject to section 18.5 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (a):

- (1) may contract with a ~~private organization~~ **collection agency licensed under IC 25-11** to provide child support enforcement services; and
- (2) **shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders pursuant to which collections have not been made on arrearages for at least two (2) years.**

(d) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(e) At the time that an application for child support services is made, the applicant must be informed that:

- (1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and
- (2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

SECTION 28. IC 12-17-2-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18.5. (a) The bureau shall establish a program to allow a prosecuting attorney with which the bureau has contracted under section 18 of this chapter to contract with a ~~private organization~~ **collection agency licensed under IC 25-11** to provide child support enforcement services.

(b) The bureau ~~may shall: establish:~~

- (1) ~~establish~~ a list of approved ~~private organizations~~ **collection agencies** with which a prosecuting attorney may contract under this section; ~~and~~
- (2) ~~establish~~ requirements for participation in the program established under this section to assure:
 - (A) effective administration of the plan; and
 - (B) compliance with all federal and state statutes, regulations, and rules;
- (3) **update and review the list described in subdivision (1) and forward a copy of the updated list to each prosecuting attorney annually; and**
- (4) **preapprove or approve all contracts between a collection agency and a prosecuting attorney.**

(c) A contract between a prosecuting attorney and a ~~private organization~~ **collection agency** under this section must include the following provisions:

- (1) A provision that records of a contractor operated child support enforcement system are subject to inspection and copying to the same extent the records would be subject to inspection and copying if the contractor were a public agency under IC 5-14-3.
- (2) A provision that records that are provided by a contractor to the prosecuting attorney that relate to compliance by the contractor with the terms of the contract are subject to inspection and copying in accordance with IC 5-14-3.

(d) Not later than July 1, ~~2001~~, **2006**, the bureau shall provide the legislative council with a report:

- (1) evaluating the effectiveness of the program established under this section; ~~and~~
- (2) **evaluating the impact of arrearage reductions for child support orders pursuant to which collection agencies have collected under IC 12-17-2-18(c).**

(e) The bureau is not liable for any costs related to a contract entered into under this section that are disallowed for reimbursement by the federal government under the Title IV-D program of the federal Social Security Act.

(f) The bureau shall treat costs incurred by a prosecuting attorney under this section as administrative costs of the prosecuting attorney.

(g) **Contracts between a collection agency licensed under**

IC 25-11 and the bureau:

- (1) shall be one (1) year renewable contracts; and**
- (2) may be negotiable contingency contracts in which a collection agency may not collect a fee that exceeds fifteen percent (15%) of the arrearages collected per case."**

Page 8, between lines 35 and 36, begin a new paragraph and insert:
 "SECTION 30. IC 12-17.4-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. A waiver or variance granted under section 8 of this chapter and a waiver or variance renewed under section 10 of this chapter expires on the earlier of the following:

- (1) The date when the license affected by the waiver or variance expires.
- (2) The date set by the division for the expiration of the waiver or variance.
- (3) The occurrence of the event set by the division for the expiration of the waiver or variance.
- (4) ~~Two (2)~~ **Four (4)** years after the date that the waiver or variance becomes effective.

SECTION 31. IC 12-17.4-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A license for a child caring institution expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the division.

(c) When a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

(d) A current license must be publicly displayed.

SECTION 32. IC 12-17.4-4-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The division may only issue a license for a therapeutic foster family home that meets:

- (1) all of the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

- (1) Be licensed as a foster parent under 470 IAC 3-1-1 et seq.
- (2) Participate in ~~thirty (30) hours~~ of pre-service training that includes:

- (A) ~~twenty (20) hours~~ of pre-service training to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and
- (B) ~~ten (10) hours~~ of additional pre-service training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and annually thereafter, participate in ~~twenty (20) hours~~ of training that includes:

- (1) ~~ten (10) hours~~ of training as required in order to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and
- (2) ~~ten (10) hours~~ of additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than two (2) foster children at the same time, not including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative. The division may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable or in the best interests of the foster children residing in the home.

(g) The department of child services shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the amount of hours of training required under

subsections (d) and (e).

SECTION 33. IC 12-17.4-4-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.7. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.

(c) The division may only issue a license for a special needs foster family home that meets:

- (1) all of the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 470 IAC 3-1-1 et seq. that includes participating in ~~twenty (20) hours~~ of pre-service training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and annually thereafter, participate in ~~twenty (20) hours~~ of training that includes:

- (1) ~~ten (10) hours~~ of training as required in order to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and
- (2) ~~ten (10) hours~~ of additional training that includes specialized training to meet the child's specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

- (1) eight (8) individuals, each of whom either:
 - (A) is less than eighteen (18) years of age; or
 - (B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or
- (2) four (4) individuals less than six (6) years of age;

including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the eight (8) individuals described in subdivision (1) may be less than six (6) years of age. The division may grant an exception to this section whenever the division determines that the placement of siblings in the same special needs foster home is desirable.

(g) The division shall consider the specific needs of each special needs foster child whenever the division determines the appropriate number of children to place in the special needs foster home under subsection (f). The division may require a special needs foster family home to provide care and supervision to less than the maximum number of children allowed under subsection (f) upon consideration of the specific needs of a special needs foster child.

(h) The department of child services shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the amount of hours of training required under subsection (e).

SECTION 34. IC 12-17.4-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A license for a foster family home expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the division.

(c) A foster family home shall have the foster family home's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

SECTION 35. IC 12-17.4-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A license for a group home expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the

application; and

(3) remains the property of the division.

(c) A current license shall be publicly displayed.

(d) If a licensee submits a timely application for renewal, the current license remains in effect until the division issues a license or denies the application.

SECTION 36. IC 12-17.4-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A license for a child placing agency expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) A child placing agency shall have the child placing agency's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application."

Page 10, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 39. IC 12-19-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The following are not personally liable, except to the state, for an official act done or omitted in connection with the performance of duties under this article:

(1) The director of the division.

(2) Officers and employees of the division.

(3) Officers and employees of a county office.

(4) The director of the department of child services.

SECTION 40. IC 12-19-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. An officer or employee of:

(1) the division; ~~or~~

(2) a county office; ~~or~~

(3) the department of child services;

may administer oaths and affirmations required to carry out the purposes of this article or of any other statute imposing duties on the county office."

Page 11, line 35, strike "appeals" and insert **"makes a request"**.

Page 12, line 9, strike "appeals" and insert **"makes a request"**.

Page 18, line 15, delete "require" and insert **"allow"**.

Page 24, line 15, delete "require" and insert **"allow"**.

Page 25, line 13, after "psychiatric" insert **"residential"**.

Page 25, line 14, after "psychiatric" insert **"residential"**.

Page 25, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 71. IC 25-11-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, unless the context otherwise requires:

(a) The term "person" means any individual, firm, partnership, limited liability company, or corporation.

(b) The term "collection agency" means and includes all persons engaging directly or indirectly and as a primary or secondary object, business, or pursuit, in soliciting claims for collection, or in the collection of claims owed or due or asserted to be owed or due to another, **including child support arrearages under IC 12-17-2**. The term "collection agency" also means and includes, but shall not be limited to, any person who sells, furnishes, or maintains a letter or written demand service, including stickers or coupon books, designed for the purpose of making demand on any debtor on behalf of any creditor for the payment of any claim wherein the person furnishing or maintaining such letter or written demand service, including stickers or coupon books, shall sell such services for a stated amount or for a percentage of money collected whether paid to the creditor or to the collection agency, or where such services may be rendered as a part of a membership in such collection agency regardless of whether or not a separate fee or percentage is charged. The term "collection agency" shall also include, but not be limited to, any individual, firm, partnership, limited liability company, or corporation who uses a fictitious name, or any name other than the individual's or

entity's name, in the collection of accounts receivable with the intention of conveying to the debtor that a third person has been employed.

(c) The term "claim" means any obligation for the payment of money or its equivalent and any sum or sums owed or due or asserted to be owed or due to another, for which any person may be employed to demand payment and to collect or enforce payment thereof. The term "claim" also includes obligations for the payment of money in the form of conditional sales agreements, notwithstanding that the personal property sold thereunder, for which payment is claimed, may be or is repossessed in lieu of payment.

SECTION 72. IC 31-9-2-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22.5. **"Conduct a criminal history check", for purposes of IC 12-14-25.5, IC 31-19, IC 31-33, IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:**

(1) request the state police department to:

(A) release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and juvenile history data (as defined in IC 10-13-4-4) concerning a person who is currently residing in a location designated by the department of child services or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location; and

(B) conduct a:

(i) national fingerprint based criminal history background check in accordance with IC 10-13-3-39; or

(ii) national name based criminal history record check (as defined in IC 10-13-3-12.5) of a person described in clause (A) if the department will be unable to obtain criminal history information from the National Crime Information Center before the out-of-home placement occurs; and

(2) collect each:

(A) substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe that a person described in subdivision (1)(A) resided; and

(B) adjudication for a delinquent act described in IC 31-37-1-2 reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe a person described in subdivision (1)(A) resided."

Page 26, line 2, after "the" insert **"bureau of child support established in the"**.

Page 26, line 2, delete ";" and insert **"established by IC 31-33-1.5-8;"**.

Page 34, line 13, delete "." and insert **"or through electronic or Internet access made available by the state central collection unit."**

Page 34, line 17, delete "through electronic funds".

Page 34, line 18, delete "transfer".

Page 34, line 20, delete "transfer." and insert **"transfer or other means described in subsection (b)."**

Page 34, between line 22 and 23, begin a new paragraph and insert:

"SECTION 83. IC 31-19-2-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. **(a) This section does not apply to a petitioner for adoption who provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:**

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the petition is filed.

(b) Every petitioner for adoption shall submit the necessary information, forms, or consents for:

(1) a licensed child placing agency; or

(2) the county office of family and children;

that conducts the inspection and investigation required for adoption of a child under ~~IC 31-19-8-1~~ **IC 31-19-8-5** to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** of the petitioner as part of its investigation.

(c) The petitioner for adoption shall pay the fees and other costs of the criminal history check required under this section.

SECTION 84. IC 31-19-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except:

(1) for:

(A) a child sought to be adopted by a stepparent;

(B) a child sought to be adopted by a ~~blood relative grandparent, an aunt, or an uncle~~; or

(C) a child received by the petitioner for adoption from an agency outside Indiana with the written consent of the division of family and children; or

(2) if the court in its discretion, after a hearing held upon proper notice, has waived the requirement for prior written approval; a child may not be placed in a proposed adoptive home without the prior written approval of a licensed child placing agency or county office of family and children approved for that purpose by the division of family and children.

(b) Except as provided in subsection (d), before giving prior written approval for placement in a proposed adoptive home of a child who is under the care and supervision of:

(1) the juvenile court; or

(2) the department of child services;

a licensed child placing agency or the department of child services shall conduct a criminal history check (as defined in IC 31-9-2-22.5) concerning the proposed adoptive parent and any other person who is currently residing in the proposed adoptive home.

(c) The prospective adoptive parent shall pay the fees and other costs of the criminal history check required under this section.

(d) A licensed child placing agency or the department of child services is not required to conduct a criminal history check (as defined in IC 31-9-2-22.5) if a prospective adoptive parent provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the licensed child placing agency or county office of family and children provides written approval for the placement."

Page 35, line 13, delete "Before December 1 of each year," and insert "One (1) time every three (3) months,".

Page 35, line 14, delete "general".

Page 35, line 15, delete "assembly" and insert "legislative council".

Page 35, between lines 17 and 18, begin a new paragraph and insert:

"Sec. 5.5. (a) This section applies after June 30, 2008.

(b) A child protection caseworker or a child welfare caseworker may not be assigned work that exceeds the following maximum caseload levels at any time:

(1) For caseworkers assigned only initial assessments, including investigations of an allegation of child abuse or neglect, twelve (12) active cases per month per caseworker.

(2) For caseworkers assigned only ongoing cases, seventeen (17) active children per caseworker.

(3) For caseworkers assigned a combination of initial assessments, including investigations of an allegation of child abuse or neglect, and ongoing cases under subdivisions (1) and (2), four (4) investigations and ten (10) active ongoing cases per caseworker.

(c) The local child protection service shall comply with the maximum caseload ratios set forth in subsection (b)."

Page 35, line 21, delete "case workers." and insert "caseworkers".

Page 35, line 34, delete "IC 31-33." and insert "this article."

Page 36, line 13, delete "The department is the single state agency in Indiana" and insert "The child support bureau is created within the department of child services. The bureau is".

Page 36, line 19, delete "department" and insert "bureau".

Page 36, line 20, delete "department" and insert "bureau".

Page 36, line 23, delete "department's" and insert "bureau's".

Page 36, line 24, delete "department" and insert "bureau".

Page 36, line 27, delete "department" and insert "bureau".

Page 36, line 36, delete "the department or an agent of the department" and insert "the bureau or an agent of the bureau".

Page 37, line 14, delete "department" and insert "bureau".

Page 37, line 27, delete "department," and insert "bureau,".

Page 37, line 28, delete "department's" and insert "bureau's".

Page 37, line 36, delete "department" and insert "bureau".

Page 37, line 42, delete "department" and insert "bureau".

Page 38, line 2, delete "department." and insert "bureau.".

Page 38, line 3, delete "department" and insert "bureau".

Page 38, line 5, delete "department." and insert "bureau.".

Page 38, line 9, delete "department" and insert "bureau".

Page 38, line 13, delete "department." and insert "bureau.".

Page 38, line 14, delete "department," and insert "bureau,".

Page 38, line 18, delete "department" and insert "bureau".

Page 38, line 21, delete "department." and insert "bureau.".

Page 38, line 26, delete "department" and insert "bureau".

Page 38, line 28, delete "department" and insert "bureau".

Page 38, line 33, after "department's" insert "or bureau's".

Page 38, between lines 33 and 34, begin a new paragraph and insert:

"Sec. 12. The department is the single state agency responsible for administering the following:

(1) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.

(2) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.

(3) The federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106 et seq.

(4) Any other federal program that provides funds to states for services related to the prevention of child abuse and neglect, child welfare services, foster care, independent living, or adoption services."

Page 38, line 35, after "2." insert "(a)".

Page 39, between lines 12 and 13, begin a new paragraph and insert:

"(b) This section expires June 30, 2008.

SECTION 88. IC 31-33-2-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. (a) This section applies after June 30, 2008.

(b) The department:

(1) must have sufficient qualified and trained staff to:

(A) fulfill the purpose of this article; and

(B) comply with the maximum caseload ratios for:

(i) child protection caseworkers; and

(ii) child welfare caseworkers;

set forth in IC 31-33-1.5-5.5;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protective services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Constitution of the State of Indiana."

Page 59, line 4, strike "the death of".

Page 59, line 4, strike "determined to be a" and insert "whose death or near fatality may have been the".

Page 59, between lines 5 and 6, begin a new paragraph and insert: "(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

(1) an entity described in subsection (a) determines that the child's death is the result of abuse, abandonment, or

neglect; or

(2) a prosecuting attorney files:

(A) an indictment or information; or

(B) a complaint alleging the commission of a delinquent act;

that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect."

Page 59, line 6, strike "(b)" and insert "(c)".

Page 59, line 6, delete "," and insert "":

(1)".

Page 59, line 8, beginning with "(1)" begin a new line double block indented.

Page 59, line 8, strike "(1)" and insert "(A)".

Page 59, line 8, after "employment," insert "and telephone number;

(B)".

Page 59, line 12, beginning with "(2)" begin a new line double block indented.

Page 59, line 12, strike "(2)" and insert "(C)".

Page 59, line 14, beginning with "(3)" begin a new line double block indented.

Page 59, line 14, strike "(3)" and insert "(D)".

Page 59, line 16, beginning with "(4)" begin a new line double block indented.

Page 59, line 16, strike "(4)" and insert "(E)".

Page 59, line 17, beginning with "(5)" begin a new line double block indented.

Page 59, line 17, strike "(5)" and insert "(F)".

Page 59, line 18, strike "a telephone number,".

Page 59, line 21, delete "." and insert "; and".

Page 59, between lines 21 and 22, begin a new line block indented and insert:

"(2) 'near fatality' has the meaning set forth in 42 U.S.C. 5106a."

Page 59, line 22, strike "(c)" and insert "(d)".

Page 59, line 28, strike "(d)" and insert "(e)".

Page 59, line 34, strike "(e)" and insert "(f)".

Page 59, line 35, after "exclude" insert "":

(1)".

Page 59, line 36, before "of" insert "described in subsection (c)(1)(B) through (c)(1)(F)".

Page 59, line 36, after "person" insert "; and

(2) all identifying information of a child less than eighteen (18) years of age."

Page 59, line 36, strike "or other information not relevant to".

Page 59, strike lines 37 through 40.

Page 59, line 41, strike "employee of".

Page 59, line 41, delete "the department."

Page 59, line 42, strike "(f)" and insert "(g)".

Page 60, line 1, strike "(e)" and insert "(f)".

Page 60, line 6, strike "(g)" and insert "(h)".

Page 60, line 6, strike "(e)" and insert "(f)".

Page 69, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 166. IC 31-34-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter, the court shall consider placing the child with a suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering any other out-of-home placement.

(b) Before placing a child in need of services with a blood relative or an adoptive relative caretaker, the court may order the division of family and children to:

(1) complete a home study of the relative's home; and

(2) provide the court with a placement recommendation.

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the court shall order the division of family and children to conduct a criminal history check (as defined in IC 31-9-2-22.5) of each person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the division of family and children, expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

(d) Except as provided in subsection (f), a court may not order an out-of-home placement if a person described in subsection (c)(1) or (c)(2) has:

(1) committed an act resulting in a substantiated report of child abuse or neglect; or

(2) been convicted of a felony listed in IC 12-17.4-4-11 or had a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult.

(e) The court is not required to order the division of family and children to conduct a criminal history check under subsection (c) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(f) A court may order an out-of-home placement if:

(1) a person described in subsection (c)(1) or (c)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the placement is in the best interest of the child.

However, a court may not order an out-of-home placement if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(g) In making its written finding under subsection (f), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable."

Page 70, between lines 3 and 4, begin a new paragraph and insert: "SECTION 170. IC 31-34-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Before complying with the other requirements of this chapter, the juvenile court shall first determine whether the following conditions make it appropriate to appoint a guardian ad litem or a court appointed special advocate, or both, for the child:

(1) If the child is alleged to be a child in need of services:

(A) under IC 31-34-1-6;

(B) under IC 31-34-1-10 or IC 31-34-1-11;

(C) due to the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with the

necessary medical care; or

(D) because the location of both of the child's parents is unknown;

the court shall appoint a guardian ad litem or court appointed special advocate, or both, for the child.

(2) If the child is alleged to be a child in need of services under:

(A) IC 31-34-1-1;

(B) IC 31-34-1-2;

(C) IC 31-34-1-3;

(D) IC 31-34-1-4;

(E) IC 31-34-1-5;

(F) IC 31-34-1-7; or

(G) IC 31-34-1-8;

the court ~~may~~ **shall** appoint a guardian ad litem, court appointed special advocate, or both, for the child.

(3) If the parent, guardian, or custodian of a child denies the allegations of a petition under section 6 of this chapter, the court shall appoint a guardian ad litem, court appointed special advocate, or both, for the child.

SECTION 171. IC 31-34-18-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check (as defined in IC 31-9-2-22.5) for each person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 172. IC 31-34-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) ~~Except as provided in subsection (d), a court may not enter a dispositional decree under subsection (b) if a person who is:~~

~~(1) currently residing in the location designated as the out-of-home placement; or~~

~~(2) reasonably expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;~~

~~has committed an act resulting in a substantiated report of child abuse or neglect; has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult; or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check in the manner set forth in IC 31-34-18-6.1.~~

~~(b) In addition to the factors under section 6 of this chapter, if the court enters a dispositional decree regarding a child in need of services that includes an out-of-home placement, the court shall~~

~~consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.~~

~~(c) The court is not required to order a probation officer or caseworker to conduct a criminal history check under subsection (a) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.~~

~~(d) A court may enter a dispositional decree under subsection (b) if:~~

~~(1) a person described in subsection (a)(1) or (a)(2) has:~~

~~(A) committed an act resulting in a substantiated report of child abuse or neglect; or~~

~~(B) been convicted or had a juvenile adjudication for:~~

~~(i) reckless homicide (IC 35-42-1-5);~~

~~(ii) battery (IC 35-42-2-1) as a Class C or D felony;~~

~~(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;~~

~~(iv) arson (IC 35-43-1-1) as a Class C or D felony;~~

~~(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;~~

~~(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or~~

~~(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and~~

~~(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child; and the dispositional decree is in the best interest of the child.~~

~~However, a court may not enter a dispositional decree if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B); or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).~~

~~(e) In making its written finding under subsection (d), the court shall consider the following:~~

~~(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the conviction, adjudication, or substantiated report of abuse or neglect.~~

~~(2) The severity of the offense, delinquent act, or abuse or neglect.~~

~~(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.~~

SECTION 173. IC 31-34-20-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) Except as provided in subsection (c), (d), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a county office of family and children that will place the child with a person under section 1(4) of this chapter if a person who is:

(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or

(2) reasonably expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2 or IC 31-34-18-6.1

~~or IC 31-34-19-7~~ establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:

- (A) is not a residence (as defined in IC 3-5-2-42.5); or**
- (B) is licensed by the state; or**

(2) placement under this section is undetermined at the time the predispositional report is prepared.

~~(c)~~ **(d)** A court may enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if:

- (1) a person described in subsection (a)(1) or (a)(2) has:
 - (A) committed an act resulting in a substantiated report of child abuse or neglect; or
 - (B) been convicted or had a juvenile adjudication for:
 - (i) reckless homicide (IC 35-42-1-5);
 - (ii) battery (IC 35-42-2-1) as a Class C or D felony;
 - (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
 - (iv) arson (IC 35-43-1-1) as a Class C or D felony;
 - (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
 - (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
 - (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and
- (2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the dispositional decree placing a child in another home or awarding wardship to a county office of family and children is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

~~(d)~~ **(e)** In making its written finding under subsection ~~(c)~~, **(d)**, the court shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
- (2) The severity of the offense, delinquent act, or abuse or neglect.
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 174. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), ~~or (c)(1)(E), or (c)(1)(F)~~ if a person who is ~~(F)~~ currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or **in a residence in which the child would be placed under subsection (c)(1)(F)**

(2) reasonably expected to be residing with a person described in subsection ~~(c)(1)(D)~~ or ~~(c)(1)(E)~~ during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** to determine if a person described in subsection ~~(a)(1) or (a)(2)~~ **(a)** has committed

an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, ~~IC 31-34-19-7,~~ or IC 31-34-20-1.5 establishes whether a person described in subsection ~~(a)(1) or (a)(2)~~ **(a)** has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

- (A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.
- (B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.
- (C) Placement of the child for adoption.
- (D) Placement of the child with a responsible person, including:

- (i) an adult sibling;
- (ii) a grandparent;
- (iii) an aunt;
- (iv) an uncle; or
- (v) another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

- (i) Care, custody, and control of the child.
- (ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

~~(d)~~ A juvenile court may approve a permanency plan if:

(1) a person described in subsection ~~(a)(1) or (a)(2)~~ **(a)** has:

- (A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

- (i) reckless homicide (IC 35-42-1-5);
- (ii) battery (IC 35-42-2-1) as a Class C or D felony;
- (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
- (iv) arson (IC 35-43-1-1) as a Class C or D felony;
- (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
- (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
- (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of

the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
- (2) The severity of the offense, delinquent act, or abuse or neglect.
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable."

Page 70, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 176. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The predispositional report prepared by a probation officer or caseworker shall include the following information:

- (1) A description of all dispositional options considered in preparing the report.
- (2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.
- (3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker must conduct a criminal history check (**as defined in IC 31-9-2-22.5**) for each person who:

- (1) is currently residing in the location designated as the out-of-home placement; or
- (2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

- (1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:
 - (A) is not a residence (as defined in IC 3-5-2-42.5); or
 - (B) is licensed by the state; or
- (2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 177. IC 31-37-19-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. (a) Except as provided in subsection (c), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if a person who is:

- (1) currently residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter; or
- (2) reasonably expected to be residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check (**as defined in IC 31-9-2-22.5**) to determine

if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-37-17-6.1 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) The juvenile court may enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if:

- (1) a person described in subsection (a)(1) or (a)(2) has:
 - (A) committed an act resulting in a substantiated report of child abuse or neglect; or
 - (B) been convicted or had a juvenile adjudication for:
 - (i) reckless homicide (IC 35-42-1-5);
 - (ii) battery (IC 35-42-2-1) as a Class C or D felony;
 - (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
 - (iv) arson (IC 35-43-1-1) as a Class C or D felony;
 - (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
 - (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
 - (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and
- (2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that entry of a dispositional decree placing the child in another home is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(d) In making its written finding under subsection (c), the court shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
- (2) The severity of the offense, delinquent act, or abuse or neglect.
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable."

Page 70, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 179. IC 31-39-2-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. The records of the juvenile court are available without a court order to an employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check (**as defined in IC 31-9-2-22.5**) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

- (1) child at imminent risk of placement;
- (2) child in need of services; or
- (3) delinquent child."

Page 70, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 181. IC 33-24-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The division of state court administration shall establish and administer an office of

guardian ad litem and court appointed special advocate services. The division shall use money it receives from the state general fund to administer the office. If funds for **volunteer** guardian ad litem and court appointed special advocate programs are appropriated by the general assembly, the division shall provide matching funds to counties that ~~are required to~~ implement and administer, in courts with juvenile jurisdiction, a **volunteer** guardian ad litem ~~and or~~ court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under IC 31-33. Matching funds must be distributed in accordance with the provisions of section 5 of this chapter. A county may use these matching funds to supplement amounts that are collected as fees under IC 31-40-3-1 and used for the operation of **volunteer** guardian ad litem and court appointed special advocate programs. The division may use its administrative fund to provide training services and communication services for local officials and local guardian ad litem and court appointed special advocate programs. The county fiscal body shall appropriate adequate funds for the county to be eligible for matching funds under this section.

(b) Matching funds provided to a county under this section shall be used for **volunteer** guardian ad litem and court appointed special advocate programs and may be deposited in the county's guardian ad litem or court appointed special advocate fund described in IC 31-40-3.

(c) Any matching funds appropriated to the division of state court administration that are not used before July 1 of each fiscal year do not revert but shall be redistributed under this section on July 1. The division shall redistribute the funds among counties providing **volunteer** guardian ad litem and court appointed special advocate programs that are entitled to receive matching funds.

(d) Money appropriated to the division of state court administration does not revert at the end of a state fiscal year to the state general fund.

(e) Only volunteer guardian ad litem or court appointed special advocate programs certified by the supreme court are eligible for funding under this section.

SECTION 182. IC 33-24-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) If appropriated by the general assembly, the division of state court administration shall grant to each county with a **volunteer** guardian ad litem or court appointed special advocate program an annual appropriation calculated under the following formula:

STEP ONE: Deduct the annual appropriation to the division of state court administration for administrative expenses.

STEP TWO: Ascertain the number of children in need of services in each county, as determined by the office of family and children, during the preceding state fiscal year.

STEP THREE: Divide the result under STEP TWO by the total number of children in need of services in Indiana, as determined by the office of family and children, during the preceding fiscal year.

STEP FOUR: Multiply the result under STEP THREE by the remaining state match appropriation.

(b) If, under subsection (a), a county's grant would result in a grant of two thousand dollars (\$2,000) or less, the county is entitled to receive a grant of two thousand dollars (\$2,000). After subtracting the state match appropriation distributed to these counties from the total remaining state appropriation, the division of state court administration shall distribute the remaining state appropriation under the following formula:

STEP ONE: Subtract the total number of children in need of services in the counties covered under subsection (a) from the total number of children in need of services in Indiana as determined by the office of family and children during the preceding state fiscal year.

STEP TWO: Divide the number of children in need of services in each of the counties not covered under subsection (a) by the result under STEP ONE.

STEP THREE: Multiply the result under STEP TWO by the total remaining state match appropriation.

STEP FOUR: Distribute the result under STEP THREE to each county not covered under subsection (a)."

Page 71, line 31, after "IC 12-7-2-16;" insert "IC 12-17.4-3-12;

IC 12-17.4-4-15; IC 12-17.4-5-12; IC 12-17.4-6-11;"

Page 71 line 32, after "IC 12-19-7.5-10;" insert "IC 31-9-2-29.7;"

Page 72, line 11, delete "the" and insert "a".

Page 72, line 12, delete "services" and insert "service".

Page 72, line 17, delete "IC 12-13-1-1" and insert "**IC 12-13-1-1, before its amendment by this act,**".

Page 73, line 15, delete "and".

Page 75, between lines 35 and 36, begin a new paragraph and insert:

"(b) A reference in the following statutes to the division of family and children shall be construed as a reference to the department of child services established by IC 31-33-1.5:

(1) IC 12-13-13.

(2) IC 12-13-15.

(3) IC 12-13-15.1.

(4) IC 12-17-1.

(5) IC 12-17-3.

(6) IC 12-17-8.

(7) IC 12-17-9.

(8) IC 12-17-10.

(9) IC 12-17-11.

(10) IC 12-17-16.

(11) IC 12-17.4.

(12) IC 12-19-1-11.

(13) IC 12-19-1-14.

(14) IC 20-8.1-6.1-5.5.

(15) IC 31-19.

(16) IC 30 through IC 31-40 that are duties, functions, or responsibilities of the department of child services under IC 31-33-1.5."

Page 75, line 36, delete "(b)" and insert "(c)".

Page 76, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 196. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) As used in this SECTION, "special needs adopted child" means a child who:

(1) has been adopted by an individual; and

(2) has been diagnosed with a mental illness, including an emotional or behavioral condition, by a psychologist licensed under IC 25-33 or a psychiatrist licensed under IC 25-22.5.

(c) As used in this SECTION, "waiver" refers to a Medicaid waiver allowed under the federal Social Security Act.

(d) Before September 1, 2005, the office shall apply to the United States Department of Health and Human Services for a waiver to allow the office to:

(1) disregard parental income for Medicaid eligibility purposes if the parental income exceeds three hundred fifty percent (350%) and is less than one thousand one percent (1001%) of the federal income poverty level; and

(2) adopt a cost participation plan if the parental income exceeds three hundred fifty percent (350%) and is less than one thousand one percent (1001%) of the federal income poverty level;

and provide coverage of mental health services for a special needs adopted child who is less than nineteen (19) years of age.

(e) The office may not implement the waiver until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(f) If the office receives a waiver applied for under subsection (d) and the governor receives the affidavit filed under subsection (e), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(g) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(h) This SECTION expires December 31, 2012."

Page 77, line 11, delete "(b)" and insert "(B)".

Page 78, between lines 7 and 8, begin a new paragraph and insert: "SECTION 193. [EFFECTIVE JULY 1, 2005] (a) The

department of child services shall submit a report to the legislative council and the health finance commission established by IC 2-5-23-3 that contains statistics concerning the education levels and salaries of all:

- (1) child protection caseworkers and child welfare caseworkers; and
- (2) child protection caseworker and child welfare caseworker supervisors;

by September 1, 2005.

(b) The report required by subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires December 31, 2005.

SECTION 194. [EFFECTIVE JULY 1, 2005] (a) The department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall submit a joint report not later than June 1, 2006, to the legislative council and the commission on mental health concerning the implementation of IC 12-13-16, as added by this act.

(b) The report required by subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires July 1, 2006."

Renumber all SECTIONS consecutively.

(Reference is to SB 529 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

BUDAK, Chair

Report adopted.

MINORITY COMMITTEE REPORT

Mr. Speaker: A minority of your Committee on Education, which met on March 23, 2005, to consider Senate Bill 296, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 1-1-3.5-5, AS AMENDED BY P.L.4-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The governor shall forward a copy of the executive order issued under section 3 of this chapter to:

- (1) the director of the Indiana state library;
- (2) the election division; and
- (3) the Indiana Register.

(b) The director of the Indiana state library, or an employee of the Indiana state library designated by the director to supervise a state data center established under IC 4-23-7.1, shall notify each state agency using population counts as a basis for the distribution of funds or services of the effective date of the tabulation of population or corrected population count.

(c) The agencies that the director of the Indiana state library must notify under subsection (b) include the following:

- (1) The auditor of state, for distribution of money from the following:

- (A) The cigarette tax fund in accordance with IC 6-7-1-30.1.
- (B) Excise tax revenue allocated under IC 7.1-4-7-8.
- (C) The local road and street account in accordance with IC 8-14-2-4.
- (D) The repayment of loans from the Indiana University permanent endowment funds under IC 21-7-4.

- (2) The board of trustees of Ivy Tech State Community College of Indiana, for the board's division of Indiana into service regions under IC 20-12-61-9.

- (3) The lieutenant governor, for the distribution of money from the rural development fund under IC 4-4-9.

- (4) The division of disability, aging, and rehabilitative services, for establishing priorities for community residential facilities under IC 12-11-1.1 and IC 12-28-4-12.

- (5) The department of state revenue, for distribution of money from the motor vehicle highway account fund under IC 8-14-1-3.

- (6) The Indiana economic development corporation, for the

evaluation of enterprise zone applications under IC 5-28-15.

(7) The alcohol and tobacco commission, for the issuance of permits under IC 7.1.

(8) The Indiana library and historical board, for distribution of money to eligible public library districts under IC 4-23-7.1-29.

(9) The state board of accounts, for calculating the state share of salaries paid under IC 33-38-5, IC 33-39-6, and IC 33-41-2."

Page 2, delete lines 1 through 26.

Page 9, line 14, strike "IC 20-1-19-2." and insert "IC 20-12-76-11."

Page 9, line 21, strike "IC 20-1-19-1." and insert "IC 20-12-76-9."

Page 10, line 7, after "opportunities" insert "and appropriate workforce development, assessment, and training services".

Page 10, between lines 7 and 8, begin a new line block indented and insert:

"(1) employees of employers whose productivity and competitiveness will be enhanced by targeted employee education and training courses and programs delivered in the employer's workplace;"

Page 10, line 8, strike "(1)" and insert "(2)".

Page 10, line 11, strike "(2)" and insert "(3)".

Page 10, line 16, delete "(3)" and insert "(4)".

Page 10, line 18, after "(3)" delete "(4)" and insert "(5)".

Page 10, line 19, after "(4)" insert "year".

Page 10, line 20, delete "(5)" and insert "(6)".

Page 10, line 23, delete "(6)" and insert "(7)".

Page 11, between lines 16 and 17, begin a new paragraph and insert:

"(c) Ivy Tech Community College of Indiana shall meet the needs of state and local officials, employers, and labor organizations by designing and delivering educational and training courses and programs. The primary objective of this effort shall be to provide economic and workforce development support to the state's employers and communities by meeting their needs for better educated and trained, more productive, and more competitive employees and citizens."

Page 11, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 20. IC 20-12-61-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Ivy Tech shall be governed by a board of trustees appointed by the governor. The number of members of the state board must equal the number of regions established under section 9 of this chapter. Each member of the state board must have knowledge or experience in one (1) or more of the following areas:

- (1) Manufacturing.
- (2) Commerce.
- (3) Labor.
- (4) Agriculture.
- (5) State and regional economic development needs.
- (6) Indiana's educational delivery system.

One (1) member of the state board must reside in each region established under section 9 of this chapter. Appointments shall be for three (3) year terms, on a staggered basis.

(b) No one who holds an elective or appointed office of the state is eligible to serve as a member of the state board. A member of a regional board may be appointed to the state board, but must then resign from the regional board.

(c) Not more than sixty percent (60%) of the members of the state board may be members of the same political party."

Page 16, line 28, strike "IC 20-1-19-1)" and insert "IC 20-12-76-9)".

Page 17, line 22, delete ", including:" and insert "and training services as described in IC 20-12-61".

Page 17, delete lines 23 through 25.

Page 17, run in lines 22 through 26.

Page 17, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 29. IC 20-33-2-22, AS ADDED BY HEA 1288-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Not later than fifteen (15) school days after the beginning of each semester, the principal of a public high school shall send to the superintendent with jurisdiction

over the school a list of names and last known addresses of all students:

- (1) not graduated; and
- (2) not enrolled in the then current semester who were otherwise eligible for enrollment.

(b) Each superintendent immediately shall make available all lists received under this section to an authorized representative of:

- (1) Ivy Tech **State Community College of Indiana**; and
- (2) an agency whose purpose it is to enroll high school dropouts in various training programs.

(c) Each representative authorized to receive a list prepared under subsection (b) shall stipulate in writing that the list will be used only to contact prospective students or prospective trainees. If a list is used for any other purpose, the college or agency that the recipient represents is ineligible to receive subsequent lists for five (5) years."

Page 18, line 1, strike "IC 20-1-18.3-5)" and insert "**IC 22-4.1-13-5)**".

Page 18, after line 14, begin a new paragraph and insert:

"SECTION 31. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 20-12-61-4(c), as added by this act, an individual who serves as a member of the state board of trustees of Ivy Tech State College on June 30, 2005, is entitled to serve as a member of the state board of trustees until the individual's term on the state board of trustees would expire under IC 20-12-61-4, before its amendment by this act.**

(b) Whenever a vacancy occurs on the state board of trustees of Ivy Tech Community College, the governor shall appoint an individual to fill the vacancy so as to move the membership of the state board of trustees into compliance with the requirement of IC 20-12-61-4(c), as added by this act.

(c) This SECTION expires on January 1, 2009."

Renumber all SECTIONS consecutively.

(Reference is to SB 296 as printed February 11, 2005.)

and when so amended that said bill do pass.

PORTER

After discussion, Representative Behning, the Chair of the Committee on Education, requested adoption of the minority report.

The question was, Shall the minority report be substituted for the majority report? The minority report was adopted.

ENGROSSED SENATE BILLS ON SECOND READING

With consent of the members, the following bills were called down by their respective sponsors, were read a second time by title, and, there being no amendments, were ordered engrossed: Engrossed Senate Bills 47, 63, 92, 100, 164, 165, 179, 195, 197, 224, 233, 279, 293, 308, 419, 482, 498, 525, 527, 539, 557, 571, 591 and 602 and Engrossed Senate Joint Resolution 10.

Engrossed Senate Bill 77

Representative Hinkle called down Engrossed Senate Bill 77 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 77-1)

Mr. Speaker: I move that Engrossed Senate Bill 77 be amended to read as follows:

Page 1, between lines 9 and 10, begin a new paragraph and insert: "SECTION 3. IC 9-22-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) Except as provided in subsection (c), the person who owns an abandoned vehicle or parts is:**

- (1) responsible for the abandonment; and
- (2) liable for all of the costs incidental to the removal, storage, and disposal;

of the vehicle or the parts under this chapter.

(b) The costs for storage of an abandoned vehicle may not exceed one thousand five hundred dollars (\$1,500).

(c) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, the person who previously owned the vehicle is not responsible for storage fees.

(d) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, and proceeds from the sale of the vehicle covered the storage expenses, any remaining proceeds from the sale of the vehicle shall be returned to the previous owner of the vehicle if the previous owner is known."

Page 4, line 25, after "with" insert "**IC 9-22-1-4,**".

Page 6, line 9, after "5." insert "**(a)**".

Page 6, between lines 24 and 25, begin a new paragraph and insert: "**(b) The costs of storing a motor vehicle may not exceed one thousand five hundred dollars (\$1,500).**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 77 as printed March 23, 2005.)

KOCH

The Speaker ordered the roll of the House to be called. Roll Call 378: yeas 59, nays 36. Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 106

Representative Torr called down Engrossed Senate Bill 106 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 106-1)

Mr. Speaker: I move that Engrossed Senate Bill 106 be amended to read as follows:

Page 1, delete line 13.

Page 1, line 14, delete "(5)" and insert "**(4)**".

Page 1, line 15, delete "(6)" and insert "**(5)**".

Page 2, line 4, after "(c)" insert "**Faith and religion programming may be provided in a transitional dormitory if a secular alternative to the faith and religion programming is available to all inmates in the transitional dormitory.**

(d)".

Page 2, line 6, delete "dormitory." and insert "**dormitory, but a faith based organization must comply with subsection (c).**".

Page 3, line 13, delete "faith based".

Page 3, line 20, delete "faith based".

Page 3, line 23, delete "faith based".

Page 3, line 25, delete "faith based".

Page 3, line 28, delete "faith based".

Page 3, line 29, delete "and".

Page 3, line 30, delete "faith based".

Page 3, line 32, delete "faith based".

Page 3, line 34, delete "." and insert "**; and**".

Page 3, between lines 34 and 35, begin a new line block indented and insert:

"(4) a comparison between the experiences of inmates:

(A) participating in faith based programming; and

(B) not participating in faith based programming."

Page 3, line 42, delete "a faith based" and insert "**an**".

(Reference is to ESB 106 as printed April 1, 2005.)

ORENTLICHER

Upon request of Representatives Orentlicher and Pierce, the Speaker ordered the roll of the House to be called. Roll Call 379: yeas 24, nays 72. Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 127

Representative Torr called down Engrossed Senate Bill 127 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 127-3)

Mr. Speaker: I move that Engrossed Senate Bill 127 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning time.

Replace the effective date in SECTION 1 with "[EFFECTIVE JANUARY 1, 2006]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 1-1-8.1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: **Sec. 3. The state supports the county executive of any county that seeks to change the time zone in which the county is located under the procedures established by federal law.**

SECTION 2. IC 1-1-8.1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. (a) This section applies to a county that meets either of the following descriptions:**

(1) The county is adjacent to the boundary between the Central Time Zone and the Eastern Time Zone.

(2) The county is adjacent to a county that has exempted itself from observance of daylight saving time under this section.

(b) Notwithstanding any other law, daylight saving time is not required to be observed in a county to which this section applies if the county executive adopts a resolution providing that daylight saving time is not required to be observed in the county."

Page 1, line 1, delete "IC 1-1-8.1 IS" and insert "THE FOLLOWING ARE".

Page 1, line 2, delete "." and insert ": IC 1-1-8.1-1; IC 1-1-8.1-2."

Page 1, delete lines 3 through 5.

Page 1, between lines 11 and 12, begin a new paragraph and insert: "SECTION 5. [EFFECTIVE UPON PASSAGE] As provided in IC 1-1-1-8, the provisions of this act are severable."

Renumber all SECTIONS consecutively.

(Reference is to ESB 127 as printed April 1, 2005.)

GRUBB

Upon request of Representatives Grubb and Crooks, the Speaker ordered the roll of the House to be called. Roll Call 380: yeas 52, nays 45. Motion prevailed.

HOUSE MOTION (Amendment 127-11)

Mr. Speaker: I move that Engrossed Senate Bill 127 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning time.

Replace the effective date in SECTION 1 with "[EFFECTIVE JANUARY 1, 2007]".

Page 1, delete lines 3 through 12, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE JULY 1, 2005] (a) The county election board of each county shall place the following public questions on the ballot at the November 2006 general election:

"State Public Question #1: What time zone should this county be located in?

[] The Central Time Zone.

[] The Eastern Time Zone.

(You may vote for only one (1) choice on this public question.)".

"State Public Question #2: Regardless of your choice on State Public Question #1, if this county is located in the Eastern Time Zone, which of the following should the county do?

[] Observe Daylight Saving Time.

[] Observe Standard Time throughout the year (that is, not switch to Daylight Saving Time).

(You may vote for only one (1) choice on this public question.)".

(b) Except as provided in this SECTION, the public questions described in this SECTION must be placed together on the ballot in accordance with IC 3. A statement shall be placed above the public questions explaining that the results of the vote are not binding on the general assembly under the Constitution of the State of Indiana. The Indiana election commission shall prescribe the form of this statement.

(c) Each county election board shall tabulate the votes cast on the public questions described in this SECTION and certify the results under IC 3-12-4-9.

(d) Except as provided in this SECTION, IC 3 applies to the public question required by this SECTION.

(e) This SECTION expires July 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to ESB 127 as printed April 1, 2005.)

BARDON

Upon request of Representatives Bardon and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 381: yeas 43, nays 54. Motion failed.

HOUSE MOTION (Amendment 127-5)

Mr. Speaker: I move that Engrossed Senate Bill 127 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-15-3-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22.5. Where appropriate, the department shall erect and maintain signage indicating a change in the time zone line in each direction on a tollway.**

SECTION 2. IC 8-23-4-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. Where appropriate, the department shall erect and maintain signage indicating a change in the time zone line in each direction on:**

(1) a highway located within the state highway system as set forth in section 2(a) of this chapter; and

(2) the interstate highway system."

Page 1, line 12, after "4" insert ".".

Renumber all SECTIONS consecutively.

(Reference is to ESB 127 printed April 1, 2005.)

VAN HAAFTEN

Upon request of Representatives VanHaaften and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 382: yeas 51, nays 44. Motion prevailed.

HOUSE MOTION (Amendment 127-2)

Mr. Speaker: I move that Engrossed Senate Bill 127 be amended to read as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE JANUARY 1, 2006]".

Page 1, delete lines 3 through 5.

Page 1, line 6, delete "The Indiana".

Page 1, line 7, delete "general assembly urges".

Page 1, line 7, delete "to" and insert "shall".

Page 1, line 11, after "located." insert "The Governor shall present the findings of the hearings to the general assembly not later than January 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to ESB 127 as printed April 1, 2005.)

RUPPEL

After discussion, Representative Ruppel withdrew the motion

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 217

Representative Wolkins called down Engrossed Senate Bill 217 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 217-1)

Mr. Speaker: I move that Engrossed Senate Bill 217 be amended to read as follows:

Page 3, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 9-13-2-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.7. "Aggressive driving", for purposes of IC 9-21-8-55, has the meaning set forth in IC 9-21-8-55(a).**

Page 4, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 5. IC 9-21-8-55 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 55. (a) For purposes of this section, a person engages in aggressive driving if, during one (1) episode of continuous driving of a vehicle, the person does at least**

three (3) of the following:

- (1) **Following a vehicle too closely in violation of IC 9-21-8-14.**
- (2) **Unsafe operation of a vehicle in violation of IC 9-21-8-24.**
- (3) **Overtaking another vehicle on the right by driving off the roadway in violation of IC 9-21-8-6.**
- (4) **Unsafe stopping or slowing a vehicle in violation of IC 9-21-8-26.**
- (5) **Unnecessary sounding of the horn in violation of IC 9-19-5-2.**
- (6) **Failure to yield in violation of IC 9-21-8-29 through IC 9-21-8-34.**
- (7) **Failure to obey a traffic control device in violation of IC 9-21-8-41.**
- (8) **Driving at an unsafe speed in violation of IC 9-21-5.**
- (9) **Repeatedly flashing the vehicle's headlights.**

(b) **A person who knowingly or intentionally engages in aggressive driving commits aggressive driving, a Class A misdemeanor."**

Page 5, delete lines 12 through 42, begin a new paragraph, and insert:

"SECTION 7. IC 35-42-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) As used in this section, "hazing" means forcing or requiring another person:

- (1) with or without the consent of the other person; and
- (2) as a condition of association with a group or organization; to perform an act that creates a substantial risk of bodily injury.

(b) A person who recklessly, knowingly, or intentionally performs:

- (1) an act that creates a substantial risk of bodily injury to another person; or
- (2) hazing;

commits criminal recklessness. Except as provided in subsection (c), criminal recklessness is a Class B misdemeanor.

(c) The offense of criminal recklessness as defined in subsection (b) is:

- (1) a Class A misdemeanor if the conduct includes the use of a vehicle;
- (2) a Class D felony if:
 - (A) it is committed while armed with a deadly weapon; or
 - (B) **the person committed aggressive driving (as defined in IC 9-21-8-55) and caused serious bodily injury to another person; or**
- (3) a Class C felony if:
 - (A) it is committed by shooting a firearm from a vehicle into an inhabited dwelling or other building or place where people are likely to gather; or
 - (B) **the person committed aggressive driving (as defined in IC 9-21-8-55) and caused the death of another person.**
- (d) A person who recklessly, knowingly, or intentionally:
 - (1) inflicts serious bodily injury on another person; or
 - (2) performs hazing that results in serious bodily injury to a person;

commits criminal recklessness, a Class D felony. However, the offense is a Class C felony if committed by means of a deadly weapon.

(e) A person, other than a person who has committed an offense under this section or a delinquent act that would be an offense under this section if the violator was an adult, who:

- (1) makes a report of hazing in good faith;
- (2) participates in good faith in a judicial proceeding resulting from a report of hazing;
- (3) employs a reporting or participating person described in subdivision (1) or (2); or
- (4) supervises a reporting or participating person described in subdivision (1) or (2);

is not liable for civil damages or criminal penalties that might otherwise be imposed because of the report or participation.

(f) A person described in subsection (e)(1) or (e)(2) is presumed to act in good faith.

(g) A person described in subsection (e)(1) or (e)(2) may not be treated as acting in bad faith solely because the person did not have probable cause to believe that a person committed:

- (1) an offense under this section; or
- (2) a delinquent act that would be an offense under this section if the offender was an adult."

Delete page 6.

Page 7, delete lines 1 through 7.

Page 7, line 8, after "2005]" insert **"IC 9-21-8-55, as added by this act, and"**.

Page 7, line 9, delete "applies" and insert **"apply"**.

Renumber all SECTIONS consecutively.

(Reference is to ESB 217 as printed April 1, 2005.)

T. BROWN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 244

Representative Borror called down Engrossed Senate Bill 244 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 244-1)

Mr. Speaker: I move that Engrossed Senate Bill 244 be amended to read as follows:

Page 10, line 14, after "include" insert ":

(A)".

Page 10, line 15, delete "." and insert **"; and**

(B) a verified statement of qualifications for each person providing design services and primary construction services, including identifying each subcontractor."

(Reference is to ESB 244 as printed April 1, 2005.)

KUZMAN

The Speaker ordered a division of the House and appointed Representatives Friend and Stilwell to count the yeas and nays. Yeas 48, nays 50. Motion failed.

HOUSE MOTION (Amendment 244-3)

Mr. Speaker: I move that Engrossed Senate Bill 244 be amended to read as follows:

Page 3, between lines 22 and 23, begin a new paragraph and insert:

"Sec. 3. The department of administration shall adopt rules under IC 4-22-2 that are consistent with this article and set out the procedures to be followed by state agencies to determine whether it is in the best interest of the public to enter into a design-build contract to complete the public project."

Page 5, line 6, delete "," and insert **"or in accordance with rules adopted under IC 5-30-2-3 for state agencies without governing bodies,"**.

Page 9, line 20, delete "." and insert **", including a description of the level of design to be provided in the proposals. This description must include the scope and type of renderings, drawings, and specifications that, at a minimum, will be required by the public agency to be produced by the design-build entities."**

Page 9, line 23, after "a" insert **"detailed"**.

Page 9, between lines 34 and 35, begin a new paragraph and insert: **"Sec. 6. The criteria for the price evaluation must include the following:**

(1) The total projected cost.

(2) The construction costs.

(3) The time of completion.

The total project evaluation weighting factor shall be set forth in the request for proposals and shall be at least twenty-five percent (25%)."

Page 9, line 35, delete "6." and insert **"7."**

Page 10, line 34, delete "divide each offeror's price by the written composite" and insert **", the price proposed shall be evaluated and the weighted factor applied to the composite score developed from the qualitative proposal."**

Page 10, delete lines 35 through 36.

Page 10, line 38, delete "lowest adjusted price providing the best" and insert **"best score."**

Page 10, line 39, delete "value to the taxpayer."

Page 11, line 4, delete "any contract term".

Page 11, line 5, delete ", except for" and insert **"for the purpose of securing better terms for the agency than originally proposed,**

provided that the basic scope of the project is not changed."

Page 11, line 6, delete "those" and insert "Those".

Page 11, line 7, delete "." and insert "**may not be renegotiated.**".

Page 11, line 24, after "price" insert "**for the purpose of securing better terms for the agency**".

Page 11, line 25, after "make" insert "**only those**".

Page 11, line 25, delete "in the scope" and insert "**that do not alter the basic scope**".

Page 11, line 37, delete "between the public agency and the" and insert "**for the purpose of securing better terms for the agency, provided that the basic scope of the project is not changed.**".

Page 11, delete lines 38 through 39.

Page 12, after line 26, begin a new paragraph and insert:

"Sec. 7. The public agency may use the design criteria developer, an architect registered under IC 25-4, or a professional engineer registered under IC 25-31 to conduct construction inspection."

(Reference is to ESB 244 as printed April 1, 2005.)

RESKE

Motion failed. The bill was ordered engrossed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 7:00 p.m. with the Speaker in the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bills 1073 and 1495 with amendments and the same are herewith returned to the House for concurrence.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 60 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 253

Representative Ripley called down Engrossed Senate Bill 253 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 253-1)

Mr. Speaker: I move that Engrossed Senate Bill 253 be amended to read as follows:

Page 7, line 2, after "." insert "**However, the insurer shall:**

- (1) inform the insured that the insured may request the policy in paper form; and**
- (2) issue the policy in paper form upon the request of the insured."**

Page 9, between lines 34 and 35, begin a new line block indented and insert:

"The provision must specify that the certificate will be provided in paper form upon the request of the insured."

Page 12, line 29, after "may" insert ":

(1)".

Page 12, line 29, delete "." and insert "; and

(2) request the certificate in paper form."

Page 13, between lines 28 and 29, begin a new paragraph and insert:

"(f) An accident and sickness insurer shall:

- (1) inform an insured that the insured may request that the statements described in subsection (c) be sent in paper form;**

and

- (2) send the statements in paper form upon the request of the insured."**

Page 13, line 31, after "7." insert "(a)".

Page 13, between lines 33 and 34, begin a new paragraph and insert:

"(b) An insurer that provides a directory described in subsection (a) shall:

- (1) inform the insured that the insured may request the directory in paper form; and**
- (2) provide the directory in paper form upon the request of the insured."**

Page 13, line 41, after "form." insert "**The group contract holder or health maintenance organization shall provide the evidence of coverage in paper form upon the request of the subscriber."**

Page 14, line 2, after "may" insert ":

(1)".

Page 14, line 3, delete "." and insert "; and

(2) request the evidence of coverage in paper form."

Page 14, line 5, after "1." insert "(a)".

Page 14, between lines 12 and 13, begin a new paragraph and insert:

"(b) A health maintenance organization shall:

- (1) inform a subscriber or potential enrollee that the subscriber or potential enrollee may request a list described in subsection (a) in paper form; and**
- (2) provide the list in paper form upon the request of the subscriber or potential enrollee."**

Page 14, line 27, after "(c)" insert "**A limited service health maintenance organization shall issue the evidence of coverage described in subsection (a) and an amendment described in subsection (b) in paper form upon the request of the subscriber.**

(d)".

Page 14, line 30, after "may" insert ":

(1)".

Page 14, line 30, delete "." and insert "; and

(2) request the evidence of coverage in paper form."

(Reference is to ESB 253 as printed April 1, 2005.)

RIPLEY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 371

Representative Behning called down Engrossed Senate Bill 371 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 371-3)

Mr. Speaker: I move that Engrossed Senate Bill 371 be amended to read as follows:

Page 21, after line 7, begin a new paragraph and insert:

"SECTION 24. IC 20-5-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. If a school corporation police officer or employee reasonably believes that an individual has committed:

- (1) battery (as defined in IC 35-42-2-1); or**
- (2) an offense that results in bodily injury (as defined in IC 35-41-1-4);**

against a school corporation employee on school corporation property or at a school activity, function, or event, the school corporation shall immediately notify the appropriate law enforcement agency that has jurisdiction.

Page 50, after line 35, begin a new paragraph and insert:

SECTION 61. IC 20-26-5-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. If a school corporation police officer or employee reasonably believes that an individual has committed:

- (1) battery (as defined in IC 35-42-2-1); or**
- (2) an offense that results in bodily injury (as defined in IC 35-41-1-4);**

against a school corporation employee on school corporation property or at a school activity, function, or event, the school corporation shall immediately notify the appropriate law

enforcement agency that has jurisdiction."

Renumber all SECTIONS consecutively.

(Reference is to ESB 371 as printed March 30, 2005.)

GOODIN

Motion prevailed.

HOUSE MOTION
(Amendment 371-4)

Mr. Speaker: I move that Engrossed Senate Bill 371 be amended to read as follows:

Page 40, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 49. IC 20-10.1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A school year is the period of time beginning after June 30 of each year and ending before July 1 of the following year, except when a different period is specified for a particular purpose.

(b) A student instructional day in grades 1 through 6 consists of a minimum of five (5) hours of instructional time. A student instructional day in grades 7 through 12 consists of a minimum of six (6) hours of instructional time. For purposes of this section, instructional time is time in which students are participating in an approved course, curriculum, or educationally related activity under the direction of a teacher, including a reasonable amount of passing time between classes. However, instructional time does not include lunch or recess.

(c) ~~For the 1987-88 school year, each school corporation shall conduct at least one hundred seventy-five (175) student instructional days.~~ For the 1988-89 school year and each school year after that, each school corporation shall conduct at least one hundred eighty (180) student instructional days. No later than June 15 of each school year, the superintendent of each school corporation shall certify to the department the number of student instructional days conducted during that school year.

(d) If a school corporation fails to conduct the minimum number of student instructional days during a school year as required under subsection (c), the department shall reduce the August tuition support distribution to that school corporation by an amount determined as follows:

~~(1) For the 1987-88 school year, the amount determined under STEP THREE of the following formula:~~

~~STEP ONE: Divide the amount of the total tuition support allocated to the school corporation for the 1987-88 school year by one hundred seventy-five (175).~~

~~STEP TWO: Subtract the number of student instructional days that the school corporation conducted from one hundred seventy-five (175).~~

~~STEP THREE: Multiply the amount determined under STEP ONE by the amount determined under STEP TWO.~~

~~(2) For the 1988-89 school year and each school year after that, the amount determined under STEP NINE of the following formula:~~

~~STEP ONE: Determine the remainder of:~~

~~(A) the amount of the total tuition support allocated to the school corporation for the particular school year; minus~~

~~(B) that part of the total tuition support allocated to the school corporation for that school year with respect to student instructional days one hundred seventy-six (176) through one hundred eighty (180).~~

~~STEP TWO: Subtract the number of student instructional days that the school corporation conducted from one hundred eighty (180).~~

~~STEP THREE: Determine the lesser of five (5) or the remainder determined under STEP TWO.~~

~~STEP FOUR: Divide the amount subtracted under STEP ONE(B) by five (5).~~

~~STEP FIVE: Multiply the quotient determined under STEP FOUR by the number determined under STEP THREE.~~

~~STEP SIX: Subtract the number determined under STEP THREE from the remainder determined under STEP TWO.~~

~~STEP SEVEN: Divide the remainder determined under STEP ONE by one hundred seventy-five (175).~~

~~STEP EIGHT: Multiply the quotient determined under STEP~~

SEVEN by the remainder determined under STEP SIX.

STEP NINE: Add the product determined under STEP FIVE to the product determined under STEP EIGHT.

(e) The department may grant a waiver of the penalty imposed under subsection (d) for a particular number of ~~cancelled canceled~~ student instructional days if:

(1) the school corporation applies to the department for a waiver of the penalty imposed under subsection (d) for a specific number of ~~cancelled canceled~~ student instructional days; and

(2) each of the particular number of student instructional days requested to be waived under this subsection was ~~cancelled canceled~~ due to extraordinary circumstances.

(f) The department shall develop guidelines for school corporations to apply for a waiver under subsection (e).

(g) Beginning with the 2007-2008 school year, student instructional days for a school year may not begin before September 1. This subsection does not apply to a school that conducts student instructional days (other than during summer school) during a school term in twelve (12) consecutive months."

Renumber all SECTIONS consecutively.

(Reference is to ESB 371 as printed March 30, 2005.)

LEHE

Representative Kuzman rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into Engrossed Senate Bill 371 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 371-2)

Mr. Speaker: I move that Engrossed Senate Bill 371 be amended to read as follows:

Page 50, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 60. IC 20-23-8-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 0.5. This chapter does not apply to a school corporation or the governing body of a school corporation governed by IC 20-23-15.**

SECTION 61. IC 20-23-15.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 15.5. Election of School Board Members in East Chicago

Sec. 1. This chapter applies:

(1) after December 31, 2005; and

(2) to a school corporation located in a city that has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

Sec. 2. IC 20-23-8 does not apply to a school corporation or the governing body of a school corporation governed by this chapter.

Sec. 3. The governing body of the school corporation consists of the following members:

(1) Four (4) members elected at large by the registered voters of the entire school corporation. The members elected under this subdivision shall be elected on a nonpartisan basis at a primary election held in the county.

(2) Two (2) members appointed by the mayor of the city.

(3) One (1) member appointed by the city legislative body.

Sec. 4. Upon assuming office and in conducting the business of the governing body, a member shall represent the interests of the entire school corporation.

Sec. 5. The following apply to an election of members of the governing body of the school corporation:

(1) Each candidate must file a petition of nomination with the circuit court clerk not later than seventy-four (74) days before the election at which members are to be elected. The petition of nomination must include the following information:

(A) The name of the candidate.

(B) The signatures of at least one hundred (100) registered voters residing within the school corporation.

(C) A certification that the candidate meets the qualifications for candidacy imposed by this chapter.

(2) Only eligible voters residing in the school corporation may vote for a candidate.

Sec. 6. The Indiana state board of education, with assistance from the county election board, shall establish balloting procedures under IC 3 for the election and all other procedures required to implement this chapter.

Sec. 7. The term of office of each member of the governing body of the school corporation is as follows:

(1) For an elected member of the governing body, four (4) years beginning July 1 following the member's election.

(2) For an appointed member of the governing body, four (4) years beginning on the date the member's predecessor's term expires.

Sec. 8. (a) Two (2) elected members of the governing body of the school corporation shall be elected at the primary election held in each even numbered year.

(b) The mayor of the city shall appoint one (1) member of the governing body of the school corporation before July 1 of each even numbered year.

(c) The city legislative body shall appoint a member of the governing body of the school corporation before July 1, 2006, and every four (4) years thereafter.

Sec. 9. (a) A vacancy in the office of an elected member of the governing body of the school corporation shall be filled temporarily by the governing body as soon as practicable after the vacancy occurs. An individual filling a vacancy under this subsection serves until the expiration of the term of the member whose position the individual fills.

(b) A vacancy in the office of an appointed member of the governing body of the school corporation shall be filled by the appointing authority as soon as practicable after the vacancy occurs. An individual filling a vacancy under this subsection serves until the expiration of the term of the member whose position the individual fills.

Sec. 10. (a) Before August 1 of each year, the school corporation shall file with the state superintendent of public instruction the following information:

(1) A list containing the names and addresses of each member of the governing body of the school corporation and the date of the expiration of each member's term of office.

(2) A list containing the names and addresses of each of the school corporation's officers and the date of the expiration of each officer's term of office.

(b) The school corporation shall file any change in the information under subsection (a) not later than thirty (30) days after the change occurs."

Page 91, between lines 8 and 9, begin a new paragraph and insert: "SECTION 129. [EFFECTIVE JULY 1, 2005] (a) This SECTION applies to a school corporation and the governing body of the school corporation in a city that has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(b) Notwithstanding any other law, the terms of the members of the governing body of the school corporation who hold office on June 30, 2006, expire July 1, 2006.

(c) On July 1, 2006, all powers, duties, and functions adhering to the governing body of the school corporation in existence on June 30, 2006, are transferred to the governing body established by IC 20-23-15.5, as added by this act.

(d) On July 1, 2006, the property and records of the governing body of the school corporation in existence on June 30, 2006, are transferred to the governing body established by IC 20-23-15.5, as added by this act.

(e) Notwithstanding IC 20-23-15.5-8, as added by this act, the four (4) elected members of the governing body of the school corporation shall be elected at the primary election to be held on May 2, 2006. IC 3 and IC 20-23-15.5, as added by this act, except to the extent those provisions conflict with this SECTION, apply to the election held under this subsection.

(f) Notwithstanding IC 20-23-15.5-7, as added by this act, the terms of office of the members elected under subsection (e) expire as follows:

(1) The terms of office of the two (2) members who receive

the greatest and next greatest numbers of votes in the election expire July 1, 2010.

(2) The terms of office of the two (2) members elected but who are not described in subdivision (1) expire July 1, 2008.

(g) The successors of the members described in subsection (f) shall be elected as follows:

(1) The successors of the members described in subsection (f)(1) shall each be elected for a four (4) year term at the primary election held May 4, 2010, as provided in IC 20-23-15.5-7 and IC 20-23-15.5-8, both as added by this act.

(2) The successors of the members described in subsection (f)(2) shall each be elected for a four (4) year term at the primary election held May 6, 2008, as provided in IC 20-23-15.5-7 and IC 20-23-15.5-8, both as added by this act.

(h) This SECTION expires July 1, 2010."

Renumber all SECTIONS consecutively.

(Reference is to ESB 371 as printed March 30, 2005.)

AGUILERA

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 373

Representative Borrer called down Engrossed Senate Bill 373 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 373-2)

Mr. Speaker: I move that Engrossed Senate Bill 373 be amended to read as follows:

Page 1, line 12, after "to" insert "use reasonable care to".

Page 1, line 12, delete ", keep up, or improve".

Page 1, line 13, delete "estate" and insert "property".

(Reference is to ESB 373 as printed March 29, 2005.)

KOCH

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 496

Representative Espich called down Engrossed Senate Bill 496 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 496-5)

Mr. Speaker: I move that Engrossed Senate Bill 496 be amended to read as follows:

Page 92, delete line 7 and insert "Indiana economic development corporation established by IC 5-28-3-1".

Page 92, line 8, delete "established by P.L.224-2003 under this chapter".

Page 92, line 42, delete "department of tourism and community" and insert "Indiana economic development corporation".

Page 93, line 1, delete "development".

Page 93, line 3, delete "department of tourism and community development" and insert "Indiana economic development corporation".

Page 93, line 13, delete "department of tourism and community" and insert "Indiana economic development corporation".

Page 93, line 14, delete "development".

Page 93, line 15, delete "department of tourism and community development" and insert "Indiana economic development corporation".

Page 93, line 18, delete "department of tourism and community development" and insert "Indiana economic development corporation".

Page 93, line 21, delete "department of tourism and" and insert "Indiana economic development corporation".

Page 93, line 22, delete "community development".

Page 93, line 31, delete "department of tourism and community development" and insert "Indiana economic development corporation".

Page 93, line 34, delete "department of tourism and community development." and insert "Indiana economic development corporation".

Page 93, line 36, delete "department of tourism" and insert **"Indiana economic development corporation"**.

Page 93, line 37, delete "and community development".

Page 93, line 39, delete "department of tourism and community development" and insert **"Indiana economic development corporation"**.

Page 93, line 41, delete "department of" and insert **"Indiana economic development corporation"**.

Page 93, line 42, delete "tourism and community development".

Page 94, line 5, delete "department of " and insert **"Indiana economic development corporation,"**.

Page 94, line 6, delete "tourism and community development,".

Page 94, line 6, delete "department of tourism" and insert **"Indiana economic development corporation"**.

Page 94, line 7, delete "and community development".

Page 94, line 10, delete "department of tourism and" and insert **"Indiana economic development corporation"**.

Page 94, line 11, delete "community development".

Page 94, line 14, delete "department of tourism and community" and insert **"Indiana economic development corporation."**

Page 94, delete line 15.

Page 94, line 20, delete "department of" and insert **"Indiana economic development corporation"**.

Page 94, line 21, delete "tourism and community development".

Page 94, line 28, delete "department of tourism and" and insert **"Indiana economic development corporation"**.

Page 94, line 29, delete "community development".

Page 94, line 34, delete "department of tourism and" and insert **"Indiana economic development corporation"**.

Page 94, line 35, delete "community development".

Page 95, line 3, delete "department of tourism and" and insert **"Indiana economic development corporation,"**.

Page 95, line 4, delete "community development,".

(Reference is to ESB 496 as printed April 1, 2005.)

CRAWFORD

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 503

Representative Koch called down Engrossed Senate Bill 503 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 503-1)

Mr. Speaker: I move that Engrossed Senate Bill 503 be amended to read as follows:

Page 7, line 25, delete "." and insert **"to be administered by the county recorder. The county fiscal body shall appropriate money from the fund."**

(Reference is to ESB 503 as printed March 30, 2005.)

KOCH

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 603

Representative Frizzell called down Engrossed Senate Bill 603 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 603-1)

Mr. Speaker: I move that Engrossed Senate Bill 603 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 20. (a) As used in this section, "deductible expenses" means unreimbursed travel expenses, housing expenses, lost wages, and other expenses incurred by an individual in connection with the donation of a kidney.

(b) An individual:

(1) who donates a kidney; or

(2) whose dependent donates, of the dependent's own volition, a kidney;

for use in human kidney transplantation is entitled to a deduction

from the individual's adjusted gross income for the taxable year in which the kidney is donated.

(c) The amount of the deduction may not exceed the lesser of:

(1) the individual's deductible expenses; or

(2) eight thousand dollars (\$8,000).

(d) To obtain the deduction provided by this section, the individual must file with the department proof of the individual's deductible expenses.

(e) An individual may claim only one (1) deduction under this section during the individual's lifetime."

Page 3, after line 3, begin a new paragraph and insert:

"SECTION 5. IC 35-46-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) As used in this section, "fetal tissue" means tissue from an infant or a fetus who is stillborn or aborted.

(b) As used in this section, "human organ" means the kidney, liver, heart, lung, cornea, eye, bone marrow, bone, pancreas, or skin of a human body.

(c) As used in this section, "item of value" means money, real estate, funeral related services, and personal property. "Item of value" does not include:

(1) the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ; or

(2) the reimbursement of travel expenses, housing expenses, lost wages, and other expenses incurred by the donor of a human organ related to the donation of the human organ; or

(3) an income tax deduction under IC 6-3-2-20.

(d) A person who intentionally acquires, receives, sells, or transfers in exchange for an item of value:

(1) a human organ for use in human organ transplantation; or

(2) fetal tissue;

commits unlawful transfer of human tissue, a Class C felony.

SECTION 6. [EFFECTIVE JANUARY 1, 2006] IC 6-3-2-20, as added by this act, applies to taxable years beginning after December 31, 2005."

Renumber all SECTIONS consecutively.

(Reference is to ESB 603 as printed March 30, 2005.)

ORENTLICHER

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill.

After discussion, Representative Whetstone withdrew the point of order and Representative Orentlicher withdrew the motion to amend.

There being no further amendments, the bill was ordered engrossed.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 60

The Speaker handed down Senate Concurrent Resolution 60, sponsored by Representatives Murphy and Bauer:

A CONCURRENT RESOLUTION honoring the life of Pope John Paul II.

Whereas, Pope John Paul II was born Karol Wojtyla on May 18, 1920, in Wadowice, Poland and was baptized on June 20, 1920;

Whereas, He was ordained as the auxiliary bishop of Krakow on September 28, 1958, and was named archbishop of Krakow on December 30, 1963;

Whereas, In 1978, at the age of 58, he was elected 264th pope and bishop of Rome, becoming the first non-Italian pope in 455 years as well as the first Polish pope;

Whereas, An assassination attempt was made on his life on May 13, 1981 and then personally met with and forgave his would be assassin;

Whereas, He reestablished diplomatic ties with the United States in 1984, established diplomatic ties with the former Soviet Union in 1990 and established diplomatic ties with Israel in 1994;

Whereas, He was named Time magazine's "Man of the Year" in 1994;

Whereas, His is the third longest pontificate in the history of the papacy;

Whereas, He was the most photographed world leader in history;

Whereas, He authored seven books and fourteen encyclicals and was fluent in ten different languages;

Whereas, His influence was felt well outside of the Church and is widely seen as a key figure in the collapse of communism in Eastern Europe;

Whereas, Pope John Paul II undertook 247 foreign and Italian pastoral visits, traveling over 700,000 miles to visit parishes, religious institutes, universities, seminaries, hospitals, rest homes, prisons, and schools; and

Whereas, Pope John Paul II was a spiritual guide, tireless advocate of peace and interfaith understanding, a voice of the oppressed, and a champion of human freedom: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly honors the life of Pope John Paul II.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to President George W. Bush and to the Secretary of State of the Vatican.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

The House stood for a moment of silence in memory of Pope John Paul II.

Representative Bauer was excused for the rest of the day.

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 88

Representative Ayres called down Engrossed Senate Bill 88 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Representative Welch was excused from voting pursuant to House Rule 47. Roll Call 383: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 172

Representative Budak called down Engrossed Senate Bill 172 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 384: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 212

Representative Kuzman called down Engrossed Senate Bill 212 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 385: yeas 93, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 341

Representative Richardson called down Engrossed Senate Bill 341 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 386: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 569

Representative Becker called down Engrossed Senate Bill 569 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was reread a third time by sections and placed upon its passage.

HOUSE MOTION (Amendment 569-2)

Mr. Speaker: I move that Engrossed Senate Bill 569 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 2, line 4, delete "Day care." and insert "**Child care centers and child care homes licensed under IC 12-17.2.**"

Page 2, line 5, delete "Preschool." and insert "**Preschool (as defined in IC 12-7-2-143.5).**"

Page 2, delete lines 8 through 9.

Page 2, line 10, after "shall" insert ":

(1)".

Page 2, line 11, delete ":". "

Page 2, line 12, delete "(1)".

Run in lines 11 through 12.

Page 2, line 16, after "(2)" insert "**make available the guidelines adopted under subsection (a) to**".

Page 2, delete lines 20 through 24.

(Reference is to ESB 569 as printed March 16, 2005.)

BECKER

There being a two-thirds vote in favor of the motion, the motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 569, begs leave to report that said bill has been amended as directed.

BECKER

Report adopted.

The question then was, Shall the bill pass?

On the motion of Representative Whetstone the previous question was called. Roll Call 387: yeas 73, nays 23. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

On the motion of Representative Duncan, the House adjourned at 8:15 p.m., this fourth day of April, 2005, until Tuesday, April 5, 2005, at 10:00 a.m.

BRIAN C. BOSMA
Speaker of the House of Representatives

M. CAROLINE SPOTTS
Principal Clerk of the House of Representatives